

RICHMOND'S LEGAL FORMS & LAW MANUAL.

ABSTRACT OF IMPORTANT ACTS OF THE PARLIAMENT OF CANADA OF 1860.

TRADE WITH FOREIGN COUNTRIES.

The Governor in Council is authorised to reduce duties on the following articles:—On wine of all kinds, dried fruits, currants, figs, almonds, walnuts and filberts, to 20 per cent. *ad valorem*, or brandy to 30 per cent. *ad valorem*.

Proclamations to that effect have been published; the Act refers to the said articles when imported from GREAT BRITAIN, as well as from any FOREIGN COUNTRY.

FOREIGN JUDGMENTS AND DECREES.—ACT OF 1860.

In any suit brought in either section of the Province on a judgment or decree obtained in the other section, in a suit where personal service was made on defendant, no defence that might have been set up to original action can be pleaded. If service in original suit was not personal and no defence was made, any defence which might have been originally set up may be pleaded. In case of suit against a corporation, service on officer or officers named in act of incorporation, or if there be no officers, then service according to the law of section where process is served, is deemed personal.

In any suit or foreign judgment or decree, (that is upon judgment or decree not obtained in other section of Province, except as before mentioned), any defence set up, or that might have been set up to original suit may be pleaded.

EFFECTS EXEMPT FROM SEIZURE.—ACT OF 1860.

The following are exempt from seizure in both sections of the Province:—Beds, bedding and bedsteads in ordinary use by, and necessary, and ordinary wearing apparel of, debtor and his family, one stove and pipes, one crane and its appendages, one pair andirons, one set cooking utensils, one pair of tongs and shovel, one table, six chairs, six knives, six forks, six plates, six tea-cups, six saucers, one sugar basin, one milk jug, one tea-pot, six spoons, all spinning wheels and weaving looms in domestic use, and ten volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use; all necessary fuel, meat, fish, flour and vegetable actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of forty dollars; one cow, four sheep, two hogs, and food therefor, for thirty days; tools and implements of or chattels ordinarily used in the debtor's occupation to the value of sixty dollars.

The debtor may select chattels exempt, out of larger number seized.

Chattels seized in satisfaction of debt contracted for them not exempt.

INSPECTION OF FLOUR AND MEAL.

Flour of a very superior quality is to be marked.....	"Superior Extra."
2nd quality.....	"Extra Superfine."
3rd ".....	"Fancy Superfine."
4th ".....	"Superfine."
5th ".....	"Superfine, No. 2."
6th ".....	"Fine."
7th ".....	"Fine Middling."
8th ".....	"Ship Stuffs" or "Pollards."

Samples of any quality of flour may be received by Boards of Trade of Quebec, Montreal, Kingston, Toronto or Hamilton between the 15th August and the 15th October in any year.

NT

ing ar-
ts and
e said
REIGN

60.
decree
defen-
eaded.
efence
gainst
, or if
cess is

decree
ny de-
ed.

.
ce:—
inary
nd its
s and
s, six
nning
e axe,
mmon
r fam-
or and
llars;
d im-
lue of

"
e."
e."

2."

"
ards."
Que-
ugust

A. W. Kimmom
Kingston, C. W.

RICHMOND'S LEGAL FORMS & LAW MANUAL.

ABSTRACT OF IMPORTANT ACTS OF THE PARLIAMENT OF CANADA OF 1860.

TRADE WITH FOREIGN COUNTRIES.

The Governor in Council is authorised to reduce duties on the following articles:—On wine of all kinds, dried fruits, currants, figs, almonds, walnuts and filberts, to 20 per cent. *ad valorem*, or brandy to 30 per cent. *ad valorem*.

Proclamations to that effect have been published; the Act refers to the said articles when imported from GREAT BRITAIN, as well as from any FOREIGN COUNTRY.

FOREIGN JUDGMENTS AND DECREES.—ACT OF 1860.

In any suit brought in either section of the Province on a judgment or decree obtained in the other section, in a suit where personal service was made on defendant, no defence that might have been set up to original action can be pleaded. If service in original suit was not personal and no defence was made, any defence

AL.

ENT

wing ar-
nuts and
m.
the said
ORREIGN

1860.

or decree
n defen-
pleaded.
defence

Bibliothèque,
Le Séminaire de Québec,
3, rue de l'Université,
Québec 4, QUE.

TI

136

RICHMOND'S
BOOK OF LEGAL FORMS
AND
LAW MANUAL



FOR THE

LEGAL TRANSACTION OF BUSINESS,

ADAPTED TO THE USE OF

COUNTY AND TOWN OFFICERS, MERCHANTS, CLERKS, MECHANICS, FARMERS, PROFESSIONAL MEN, JUSTICES OF THE PEACE, CORONERS, SHERIFFS, BAILIFFS, AND TO THE USE OF ALL PERSONS IN EVERY STATION OF LIFE.

CONTAINING UPWARDS OF TWO HUNDRED AND SEVENTY IMPORTANT LEGAL FORMS FOR ORDINARY BUSINESS TRANSACTIONS: WITH UPWARDS OF FORTY OF THE LATEST PARLIAMENTARY ACTS, WHICH WILL BE FOUND TO BE OF INTEREST TO ALL PERSONS, SUCH AS THE ACT TO PROTECT MERCHANTS AND OTHERS, THE GENERAL BANKING LAWS, LAW OF EVIDENCE, EJECTMENT, REGISTRY LAWS, LANDLORD AND TENANT ACTS, C.E. & W., REAL PROPERTY, ILLEGAL DETENTION ACT, C.E., PARTNERSHIP PROPERTY AND UNINCORPORATED COMPANIES EXTENSION ACTS FOR C. E., LIMITATION OF ACTIONS, C. E., CURRENCY ACT, &C., &C., &C.,
(SEE INDEX).

THE PRINCE OF WALES!! EDITION.

BY WELLINGTON H. RICHMOND.

AUTHOR, COMPILER AND PUBLISHER OF THE FIRST BOOK OF LEGAL FORMS IN THIS PROVINCE, ADAPTED TO THE USE OF ALL PERSONS. ALSO PUBLISHER OF BILL BOOKS, POCKET TIME BOOKS, INTEREST AND EXCHANGE TABLES, &C., &C.

SECOND EDITION, REVISED AND ENLARGED, FOR C. E. & W.

TORONTO:

PUBLISHED BY WELLINGTON H. RICHMOND.

LOVELL AND GIBSON, PRINTERS.

WITH SUPPLEMENT.

1859.

PRICE, THREE DOLLARS.



Entered, according to Act of Provincial Parliament, in the year one
thousand eight hundred and fifty-four, by WELLINGTON H. RICHMOND,
in the Office of the Registrar of the Province of Canada.

a
B
g
p
A

PREFACE
TO THE SECOND EDITION.

THE rapid sale of the First Edition of this Work, which was 2000 copies, and the great demand for a Second, has induced the Author and Compiler to issue a Revised and Enlarged Second Edition, entitled, RICHMOND'S BOOK OF LEGAL FORMS AND LAW MANUAL. This Work is very much enlarged, containing all the Legal Matter of the First Edition Revised, with nearly six hundred pages of additional Legal Matter (*including the Supplement now in press, completing the work to the close of the Session of 1859*), devoted to Legal Forms and Parliamentary Acts, thus making a work of upwards of seven hundred pages of valuable Legal Information for the people. The want of such a work of practical utility, which cannot but readily be acknowledged by all as being of great value, and much wanted when taking into consideration the large number of Legal Forms that are in the work, and the facilities afforded for drawing up documents Legally, without the waste of time and money, as there is nearly three hundred Legal Forms that are Practical.

The draft of the Legal Forms are in accordance with the Laws of the Province of Canada and the British Colonies generally. The Author and Compiler has spared no expense nor labor to prepare such Forms as are most generally wanted by the Merchant, Mechanic, Farmer, or Professional Man. The aim of the Author and Compiler has been to make the Legal Documents as plain as possible, and of that class which will be of great value to all classes of the community.

And with reference to the Acts of our Provincial Parliament, which are embraced in this work, they will be found of great utility to the Business Man and all others that wish to keep posted in certain Acts of general interest, and very requisite in a work of this kind; comprising in part such Acts as follows:—The Consolidated Municipal Loan Fund Act, with the Amendments: Insolvent Debtor's Act, Heir and Devisee

PREFACE.

Act, Real Estate of Minors Act, Patent Right with the Extension Acts, Joint Stock Companies Act for Manufacturing, &c., Mortgagees Relief Act, Unincorporated Companies Extension Act for C. E., The General Banking Laws, The Acts respecting Notes and Bills of Exchange, The Registry Laws, The Act respecting Lessors and Lessees, with a large number of other Acts too numerous to be here named (See Index). Thus it will readily be perceived that the Acts are very numerous and of the utmost importance to the enlightened portion of the community. There are public general Acts applicable to Eastern and Western or United Canada, and a large number of Acts only for Canada East, and certain others for Canada West, also containing many technical remarks and explanations of importance to be known. The present Edition, which is limited, will very much excel its predecessor, if one can judge from the great demand for the work, as it contains such information as should be known to all; and there is not the least doubt but that this Edition will soon all be sold, therefore the business man, and all others requiring the work, will please to give their orders and supply themselves without delay, as the Price is but small in comparison to the value that the work will be to them. It will be the means of saving much time and many a pound of money to persons requiring Legal Information or Legal Forms, by being in possession of it. The utility of the work will be apparent to every enlightened person who examines it, will admit it to be a useful LEGAL COMPANION. The price will only be THREE DOLLARS WITH THE SUPPLEMENT, on and after the 20th day of January, 1860, in order to place it within the reach of all. With these considerations, the work is respectfully issued to the public for their approval and support if found worthy.

The undersigned takes this opportunity to return his sincere thanks to the public generally throughout the CANADAS, for their liberal PATRONAGE extended to him for the different Publications which he has issued.

WELLINGTON H. RICHMOND,
Author and Compiler.

Toronto, C. W., 1859.

N.B.—The term District is only to be used in Forms in Canada East with the name of City, Town, Township, Seignior, or Village. And for Canada West insert County and the name of the County *and not District*. See *Practical Remarks, &c., &c.*, on pages 51, 52, and 53 in this work.

**RICHMOND'S LEGAL FORMS AND LAW MANUAL,
WITH SUPPLEMENT.**

Opinions of the Press on Richmond's Legal Forms and Law Manual.

This work is full of useful Law Forms, and should be in the hands of all men of business.—*Montreal Herald.*

This is a work we are safe in saying that no man of business, and especially no merchant or trader, no professional man, magistrate, sheriff, coroner, or bailiff should be without, were the cost thereof three times as much. We cannot speak too highly of this book, feeling assured that the person who avails himself of a copy will have no cause to regret the expenditure of the sum necessary to procure it.—*Montreal Transcript.*

It is just such a work as should be in the hands of all persons in every station of life.—*Montreal Pilot.*

We can recommend it to our readers as a work which is very valuable.—*Montreal Gazette.*

It is a book which the Canadian citizen could only *illegally* (as the Yankees say) want.—*Toronto Leader.*

We strongly recommend this work to the patronage of the public.—*Toronto Patriot.*

This is a work of great practical utility to all classes of society. There are but few persons who have not occasion to use some of the Legal Forms which are to be found in this valuable compendium, and it is highly to be desired that on such occasions the proper form should be adopted in place of such as may be defective in some respect, and thereby entailing very considerable expense.—*Toronto Globe.*

A book of this kind is eminently useful, not only to the official, but to many private individuals, who, wanting it, have recourse to an Attorney, which costs in many instances, double the price of the work.—*Toronto North American.*

No person should be without a copy of this valuable and indispensable work. The price is only three dollars, which we consider is very low for a work containing so much legal information.—*Toronto Mirror.*

This valuable Manual of Forms, adapted to all ordinary purposes, and containing copies of the various Acts of Parliament essential to be known by the man of business, the municipal councillor, and others, has, after long delay, been just issued from the press. It forms a handsome octavo volume, and is neatly bound in law style. Price \$3.—*Toronto Examiner.*

It is all it professes to be, and should be in the hands of every individual in the County.—*Cayuga Sachem.*

The author has laid a copy of this valuable book on our table, a work which no man of business, or even private individual, should be without.—*Hamilton Spectator.*

We find it filled with most valuable information. This work will be found to be of the greatest utility to all county and town officers, coroners, sheriffs, and magistrates, all of whom should procure a copy.—*Hamilton Gazette.*

Mr. Richmond is well known to the community as the author and compiler of the first book of legal forms in this province adapted for general use. The work now sent us, which is most creditably got up, with convenient marginal

notes and a most copious index, is also of handsome and durable binding. It contains upwards of two hundred and seventy important legal forms, for ordinary business transactions: with upwards of forty of the latest Parliamentary Acts, which will be found to be of interest to all persons; such as the Act to protect Merchants and others, the General Banking Laws, Law of Evidence, Usury Laws Amendment, Ejectment, Registry Laws, Landlord and Tenant, Division Courts Act, &c., &c., &c.—*Quebec Mercury*.

A valuable compendium for an Upper Canadian magistrate or lawyer, and the business-man of the Lower Province. It is a really useful work.—*Quebec Morning Chronicle*.

With it one may do business in the Courts, with the notary, the merchant, or hanker without assistance. It is an *omnium gatherum* of great value.—*Quebec Observer*.

A work exceedingly well calculated for the use of Merchants, Mechanics, Farmers, and professional men, by which they will be enabled to draw up from the most simple note or receipt, up to the most Legal document, at a saving of much time and cost. We cannot speak too highly of this work, feeling assured that the person who avails himself of a copy will have no cause to regret the expenditure of the sum necessary to procure it. It well merits an extensive sale.—*Woodstock Sentinel*.

Richmond's Book of Legal Forms and Law Manual supplies a want that has long been felt by the mercantile man, the magistrate, the legal practitioner, and the private gentleman. This work contains a great many forms that are almost daily required by a man in any business whatever, and has the best selected useful Acts of this Province that we have ever seen compiled. It is a useful work—a cheap book—and should be in every house.—*Owen Sound Comet*.

This useful work is specially deserving of notice. It contains a vast amount of information, with regard to all important legal forms which are commonly in use, and also a number of valuable facts relative to the every day transactions of life. No public officer, and few business men, should be without the Manual.—*London Prototype and Railway Advocate*.

Its varied contents are well calculated to guide satisfactorily all persons in legal transactions of business. We advise all persons who have not a guide of this kind to examine Mr. Richmond's work.—*London Times and Western Advertiser*.

STANDARD MEASURE OF THE PROVINCE OF CANADA.

By 16th Vict., cap. 193, it is enacted, that after the passing of this Act the following rates shall be the standard weight, which in all cases shall be allowed to be equal to the Winchester bushel, viz:—

Wheat,.....	Sixty pounds.
Indian Corn,.....	Fifty-six pounds.
Rye,.....	Do. Do.
Pens,.....	Sixty Do.
Barley,.....	Forty-eight Do.
Oats,.....	Thirty-four Do.
Beans,.....	Sixty Do.
Clover Seed,.....	Sixty Do.
Buckwheat,.....	Forty-eight Do.
Timothy Seed,.....	Do. Do.

N.B.—By the 4 Geo. iv., cap. 16, the Secretary shall furnish each district with a true standard. And all persons trading having Weights or Measures which they buy and sell by, unless stamped, may be convicted before any one Justice, on oath of one witness, forfeit £2 for every offence, to be levied with reasonable costs, by distress and sale, and in default the offender may be committed to gaol for any space of time not to exceed one month.

Amended by 22 Vict., 1859, see pages 662 to 664 in Richmond's Legal Forms and Law Manual Supplement, published in 1860.

binding. It
ns, for ordin-
arliamentary
s the Act to
of Evidence,
and Tenant,

lawyer, and
ork.—Quebec

the merchant,
reat value.—

s, Mechanics,
draw up from
t a saving of
eling assured
o regret the
an extensive

vant that has
practitioner,
rms that are
has the best
illed. It is a
Sound Comet.

vast amount
re commonly
day transac-
without the

all persons in
not a guide
and Western

ADA.

f this Act the
ill be allowed

each district
s or Measures
efore any one
e levied with
may be com-

Legal Forms

INDEX.

TO

Richmond's Legal Forms and Law Manual.

LEGAL FORMS, Etc.

	PAGE
ABSENT DEFENDANTS:	
Notice to Process, To C. D., the Defendant.....	487
ACCOUNT OF SALES, Etc:	
Account of Sales.....	5
Account Current.....	6
A Balance or Proof Sheet.....	7
ACKNOWLEDGMENT:	
Of a Mortgage.....	21,22
Of a Debt secured by Mortgage (<i>Short Form</i>).....	104
Of a Debt another form, with power of Sale.....	104,105
ACTIONS OF DOWER:	
Form of Declaration in Actions of Dower.....	346
ADMINISTRATOR:	
Deed by an Administrator.....	80,81
Release to an Administrator.....	140,141
AFFIDAVITS OF THE EXECUTION OF LEGAL DOCUMENTS:	
Of the Execution of an Arbitration Bond.....	24
Of the Execution of the Award.....	27
To the Board of Agriculture.....	30,31
To the Execution of Deeds and Memorials.....	57 to 64
The two Affidavits required to a Chattel Mortgage.....	126,127
AGREEMENTS AND CONTRACTS:	
To deed Property.....	12,13
For the Sale of an Estate.....	13,14
To Convey Land.....	14
On Sale of Wheat.....	14,15
To Build a House.....	15,16
AGRICULTURAL SOCIETY DECLARATION:	
Declaration by an Agricultural Society.....	30
Affidavit to the Board of Agriculture.....	30,31
Number of Members the Society is to consist of &c.....	30
ALLEGIANCE:	
The Oath of Allegiance.....	27,28
APPRENTICESHIP INDENTURE:	
Apprenticeship Indenture.....	11
ASSIGNMENTS:	
Of a Debt or Bond.....	16
By Endorsement of a Judgment, Mortgage, or Lease.....	16,17
Of a Man's whole Estate to his Creditors.....	17 to 20
Of a Man's whole Estate in Trust for his Creditors.....	20,21
To be Endorsed on an Instrument.....	21
Of Replevin Bond by a Sheriff.....	185,186

INDEX.

	PAGE
ARBITRATION AND AWARD:	
Special submission to Arbitrators.....	23
General submission to Arbitrate.....	22,23
Arbitration Bond.....	23,24
Affidavit of Execution of Arbitration Bond.....	24
Notice to Arbitrators of their Appointment	24,25
Arbitrator's Oath	25
Subpoena to appear before Arbitrators.....	25
Oath to be taken from a Witness.....	25
Revocation to Arbitrators.....	26
Notice of Revocation.....	26
The Award.....	26,27
Affidavit of the Execution of the Award	27
ASSESSORS' OATH:	
Oath of Assessor.....	28
AUDITORS' OATH:	
Auditors' Oath.....	28,29
BORROWED MONEY:	
Money Borrowed and Received.....	36
BANKS AND BANKING:	
For the Laws respecting Banks and Banking in the Province of Canada; See the annexed Index to the Parliamentary Acts, comprised in this Work.	
BANKS AND CORPORATIONS:	
Statement of the Liabilities and Assets of a Bank.....	160
Power to Transfer Shares, (three Forms).....	158,159
Forms of Proxy.....	159,160
BILLS OF LADING:	
Shipper's Bill of Lading	8
Forwarders Bill of Lading.....	10
BILLS OF PURCHASE AND OF ACCOUNT, Etc:	
Bill of Purchase.....	4
Bill of Book account.....	4
Account of Sales.....	5
Account Current.....	6
A Balance or Proof Sheet.....	7
BILLS OF EXCHANGE, DRAFTS, Etc:	
A set of Bills of Exchange.....	45,46
A Banker's Draft.....	46
Drafts or Inland Bills, two forms.....	46
Respecting Bills of Exchange.....	47,48
Of the requisites of a Bill	48
Of the obligation of Parties.....	48
Of Transfer.....	48,49
Of Presentment for Acceptance.....	49
Of Acceptance.....	49
Of Proceedings on Non-Acceptance.....	50
Of Presentment for Payment.....	50
Of Proceedings on Non-Payment.....	50
Of Payment and other Discharges.....	51
BILLS OF SALE:	
Bill of Sale of Goods, (C. W.).....	100
Bill of Sale of Goods, (C. E.).....	100,101
Of growing Crop and Stock.....	101,102

BONDS:

23	Respecting Bonds.....	127,128
22,23	A Bond, usual form, (C. E.).....	128
23,24	Common Bond with condition.....	128,129
24	Bond to execute a Conveyance.....	129,130
24,25	Bond given by two Persons.....	130
25	Bond from an Officer of a Bank or Company.....	130,131
25	Bond to a Corporation, or Company.....	131,132
25	Bond to Executors.....	132
26	Legatee's Bond to Executors.....	132,133
26	Bail Bond to a Sheriff.....	133,134
26,27	Indemnity Bond to a Sheriff.....	134,135
27	Replevin Bond to a Sheriff.....	135
	Assignment of Replevin Bond, by a Sheriff.....	135,136
28	Bond given by Township Clerk.....	136
	Township Collector's Bond.....	137
28,29	Condition of a Bond to maintain a person.....	137
	Condition of Indemnity for Signing a Bond.....	137,138

CHattel Mortgages:

See the Act in this Work respecting Mortgages of Goods and Chattels.

	Chattel Mortgage as Security for Money	124
	Mortgage to secure a Debt.....	125
	Mortgage to secure Endorser, (ERRATA.—For Adam Bates, read Oliver Jones).....	125,126
	The two Affidavits required to a Chattel Mortgage, the names may be so changed as to be applicable to either of the above Forms.....	126,127

CONVEYANCES BY DEED, WITH MEMORIALS:

	Counties substituted for District Divisions, (C. W.).....	51,52
	Practical Remarks on Conveyances by Deed or Mortgage, Etc., Etc.....	52,53
	To those Purchasing Property, or taking Mortgages.....	53
	Deed without Dower, with Memorial and Affidavit, (C. E.).....	53 to 57
	Deed with Dower, with Memorial and Affidavit, (C. W.).....	58 to 64
	Deed without Dower, (Short Form.) with Memorial.....	64 to 66
	Deed with Dower, (Short Form) with Memorial.....	66 to 68
	A Simple Deed with Dower.....	68,69
	A Simple Deed without Dower.....	70,71
	Deed without Dower, (Short Form).....	71,72
	Full Covenant Deed, (Short Form).....	72
	Deed of Lands, Exchanged.....	72,73
	Deed of Land, subject to a Mortgage.....	73,74
	Deed of Mortgaged Premises, on Foreclosure and Sale... ..	75,76
	Deed from a Corporation.....	76,77
	Deed of a Pew.....	77,78
	Deed from a Guardian.....	78,79
	Executor's Deed.....	79,80
	Deed by an Administrator, of a Person dying without a Will	80,81
	Deed to Commissioners.....	82
	Deed of Gift of Personal Property.....	82,83
	Deed of Gift of Land.....	83
	Deed of Partition.....	84,85
	Quit-Claim Deed, (Short Form, No. 1).....	85
	Quit-Claim Deed, (C. E.) No. 2).....	86
	Quit-Claim Deed, (No. 3) resigning the right of Dower... ..	86,87
	Warranty Deed without Dower, (Short Form).....	87,88

INDEX.

	PAGE
CONVEYANCES BY DEED:	
Warranty Deed Resigning the right of Dower.....	88,89
Deed to the Grand Trunk Railway Company.....	89,90
Deed to the Hamilton and Toronto Railway Company...	90
Another Form left blank.....	90,91
Deed for the Site of a School House, Etc.....	91,92
For Sheriff's Deeds of Conveyance, Etc. (see Sheriffs)...	
CORPORATION OR COMPANY:	
Bond to A Corporation or Company.....	131,132
Bond from an Officer of a Bank or Company.....	130,131
Deed from a Corporation.....	76,77
Oath by a Mayor, Alderman or Councillor.....	28
CERTIFICATES:	
Certificate from a Treasurer.....	29
Treasurer's Certificate to Cancel a Deed.....	29,30
Certificate from an Inspector of Beef and Pork.....	39
Certificate to be Endorsed on the back of a Deed executed by a Married Woman	332
CERTIFICATE OF SATISFACTION:	
Of a Judgment or Mortgage to the Registrar of the County of , I. A. B., of.....	384
Certificate to be given by the Judge of the County Court on application for a Registry Book for the Registrar for his County	392
Certificate of Judgment from the Clerk of Court.....	377
Fee for the same, 2s. 6d.	
CERTIFICATE FROM A MORTGAGEE:	
Certificate by a Mortgagee, to the Purchaser of Mortgaged Premises To the Registrar of.....	402
CORONER'S INQUEST:	
Form of Order for the Attendance of a Medical Practitioner	502
CONSOLIDATED MUNICIPAL LOAN FUND:	
Certificate of Treasurer and Mayor, or head of a Municipality, (C. W.).....	591 to 592
CHEQUES ON A BANK:	
Two Forms of Cheques on a Bank	59
Remarks respecting Cheques.....	59
CHATTEL NOTES:	
Respecting Chattel Notes.....	43,44
Chattel Notes on Time.....	44
Payable in Stock, with Interest.....	44
On Demand.....	44
On Time.....	45
Joint and several Chattel Note.....	45
COMMON LAW AND COMMON SENSE:	
Worth being remembered, the Unity of Common Law and Common sense.....	3
COUNTY COURTS:	
Form of Claim to be Filed in the Office of the Clerk of the County Court.....	572
Form of Writ of Summons.....	572,573
Fees to be received by the Clerk and to belong to and to be paid over to the Fee Fund.....	573

INDEX.

PAGE		PAGE
88,89	COUNTY COURTS:	
89,90	Fees to the Clerk.....	573
90	Fees to the Sheriff.....	573
90,91	Fees to Attorney and Solicitor.....	573,574
91,92	Fees to Council on Special Applications.....	574
	CURRENCY AND TIME TABLES:	
	Dollars and Cents converted into Currency.....	XVIII
181,182	Currency converted into Sterling and Dollars and Cents..	1
180,181	Sterling converted into Currency and Dollars and Cents..	2
76,77	Time Table	XVII
28	DEBENTURE:	
	For the Loan of Money.....	31,32
	DUE BILLS AND ORDERS:	
29	Due Bill payable in Goods.....	36
29,30	Due Bill payable in Money.....	36
32	Money Borrowed and Received.....	36
	An Order for Goods.....	35
332	An Order for Money.....	35
	Another Order for Money	35
	DECLARATION OF TRUSTS:	
384	Declaration that a certain Writing is left.....	141
	DEEDS: See "Conveyances by Deed."	
392	DIVISION COURTS:	
377	Form of Conviction for Offences against the Division	
	Courts Act, (C. W.).....	543
	Table of Fees.....	545
	Form of Summons.....	546
	Notice.....	546
462	Covenant by the Clerk or Bailiff.....	546,547
	Affidavit or Affirmation, Clerks, Judges and Justices of	
502	the Peace, are to administer the same Schedule D...	547
	Warrant to Attach, seize, take and safely keep " E...	548
	DOWER TO AN HEIR:	
	Release of Dower to an Heir.....	83,84
1 to 592	Form of Declaration in Actions of Dower.....	846
	EJECTMENT:	
59	Writ of Ejectment, Canada West.....	323
39	Form of Notice to the Defendant or Defendants, and to the	
	Person in occupation (if any) "To A. B.," the.....	325
43,44	Form of Judgment where no Appearance.....	327
44	Form of Plea.....	328
44	EXCHANGE:—See "Bills of Exchange."	
45	EXECUTORS:	
45	Deed by an Executor.....	79,80
	Release to an Executor.....	139,140
	FEEs, ATTACHMENTS AGAINST PERSONAL PROPERTY, (C. W.):	
3	Fee for every Oath, or Affirmation, including the Drawing	
	thereof	474
	For every Warrant	474
	For every Mile necessarily travelled in going to Seize	474
572	For every Schedule Return of Property Seized, &c., &c....	474
572,573	For every Bond, including Affidavit of Justification.....	474
	GUARDIAN:	
573	Deed from a Guardian.....	78,79
	Release to a Guardian.....	139
	IX	

INDEX.

	PAGE
INVOICES INWARD AND OUTWARD:	
Of Sundries Shipped, Outward	9
Of Sundries Inward	9
JUSTICES AND OTHER PEACE OFFICERS:	
Fees, to Justices of the Peace, (C. W.)	161,162
Summary Convictions, (C. W.) Act of 16 Vict. (1853), With 40 Schedule Forms	162 to 209
Indictable Offences, (C. W.) Act of 16 Vict. (1853), With 32 Schedule Forms	209 to 244
An Act to Protect Justices of the Peace in Canada West from Vexatious Actions	245 to 250
JOINT STOCK COMPANIES:	
Instrument to be Executed by Joint Stock Companies...	31
See the Act respecting Joint Stock Companies in this Work.	
LEASES:	
Lease of a Store and Dwelling	141,142
Another Lease	142 to 144
Lease, (<i>Short Form</i>)	144
LANDLORD AND TENANT:	
Landlord's Certificate of Renting	144
Tenant's Certificate of Agreement	145
Notice from a Landlord to a Tenant	145
LETTERS ON BUSINESS:	
"The first Thing necessary," says Lord Chesterfield....	145
In Answer to an Advertisement for a Clerk	145,146
Application for the Character of a Clerk	146
In Answer respecting the Character of a Clerk	146
From a Trader in the Country to a Merchant in the City..	147
A Wholesale to a Retail Firm	147
A Gentleman proposing his Son as an Apprentice	147
On Retiring from Business, and recommending a successor.	148
MORTGAGE DEEDS:	
Common Form to secure a Note resigning the Right of Dower	102,103
Mortgage by Quit-Claim, to Secure a Note	103,104
Mortgage to Secure a Debt, (<i>Short Form</i>)	104
Another Mortgage with Power of Sale	104,105
Mortgage Deed to Secure a Note	106
Mortgage Deed to Secure Endorser	105,106
Mortgage Deed to a Corporation	108,109
Mortgage Deed to Executors	109,110
Mortgage Deed for part of Purchase Money	111
Mortgage Deed by Husband and Wife	111 to 113
Mortgage Deed of Premises to be kept Insured against Fire	113,114
Mortgage Deed, (<i>Short Form</i>) with Power to Sell	114,115
Mortgage Deed with Power to Sell, (C. E.) (<i>Short Form</i>)..	115,116
Mortgage Deed with Dower, with Power of Sale, with Memorial and Affidavit	116 to 123
Notice of Sale by Advertisement on Foreclosure of Mort- gage	123,124
Chattel Mortgages, different Forms and Affidavits	124 to 127
NOTES ON TIME, MAXIM, Etc:	
Maxim never Endorse a Note, &c.	86
Promissory Notes payable at a Bank	86,87

INDEX.

PAGE		PAGE
9	NOTES ON TIME, Etc:	
9	Joint and Several Note payable at a Bank with Interest...	37
161,162	Payable at the Payee's Office or Store.....	37
32 to 209	Another Form dated at Cobourg.....	37
99 to 244	Payable to H. Jones, or Bearer.....	38
15 to 250	Not Negotiable.....	38
31	On Time with Interest.....	38
141,142	On Demand.....	38
2 to 144	On Demand with Interest.....	39
144	Payable by Instalments, with Periodical Interest.....	39
144	Respecting Promissory Notes.....	40,41
145	Consideration.....	41
145	Of Presentment for Payment.....	41,42
145	Proceeding on Non-Payment.....	42
145	Of Payment.....	42
145	Interest.....	42,43
145	Of Notice to an Endorser.....	43
145	Form of Notice.....	43
145	Limitation of Action, Notes and Instruments, not under Seal	43
145	For Notes payable in Goods and Chattels, (<i>See Chattel</i>	43
145	<i>Notes</i>	
145	ORDERS :—See "Due Bills and Orders."	
145	OATHS:	
145	Oath to be taken by a Mayor, Alderman or Councillor....	28
145	Assessor's Oath.....	28
145	Auditor's Oath.....	28,29
145	PROTEST OF BILLS OF EXCHANGE, DRAFTS AND NOTES:	
145	Fees and Charges, (C. E.) with 10 Notarial Forms.....	293 to 299
145	Forms of Protest of a Bill of Exchange for Non-payment,	
145	(C. W.).....	805,806
145	Form of Notice to Parties, and Fees on Protesting.....	806
145	PARTITION:	
145	Deed of Partition by Three Persons, of Lands held by	
145	them as Tenants.....	84,85
145	Sheriff's Deed in Partition, by Order of Court.....	97,98
145	PARTNERSHIP:	
145	See the Law respecting Co-partnerships, and Companies,	
145	&c., (C. E.).....	594 to 597
145	Schedule Declaration of Co-partnership, (C. E.).....	597
145	Limited Partnerships, (C. W.).....	598 to 600
145	Form of Certificate of Co-partnership.....	600
145	Agreement of Co-partnership.....	148,149
145	Agreement to Continue a Partnership.....	149
145	A Certificate of Co-partnership.....	149,150
145	A Dissolution of Partnership.....	150
145	Notice on Dissolution of Partnership.....	150,151
145	Notice where One Partner leaves the Firm.....	151
145	Another Notice of Dissolution of Partnership.....	151
145	POWERS OF ATTORNEY, Etc:	
145	Respecting a Power of Attorney.....	151
145	General Power to Transact Business.....	152
145	Another General Power to Transact Business.....	152,153
145	Revocation of a Power of Attorney.....	153
145	Power to Collect Debts.....	153,154
145	Power to Take charge of Lands, &c.....	154,155
145	Power to Effect Insurance.....	155,156

INDEX.

	PAGE
POWERS OF ATTORNEY, Etc :	
Power to Sell Real Estate	156
Substitution of an Attorney	157
Custom-House Power.....	157,158
Power to Transfer Shares	158
Power to Accept of Transfers of Stock of a Bank or Com- pany	158,159
Transfer of Mining Company Shares.....	159
PROXY:	
To Vote as Proxy.....	159
Proxy by a Shareholder or a Corporation	159,160
A Director's Proxy	160
QUIT-CLAIM DEEDS:—See "Conveyances by Deed."	
RECEIPTS AND RELEASES:	
General form of a Receipt on Account.....	33
Receipt in Full	33
Receipt for Money paid on a Note	33
Receipt for Money paid by a Third Person.....	33
Receipt for Money received for Another	33
Receipt for a Quarter's Rent	34
Receipt for Papers	34
Receipt for Money on a Bond	34
Receipt for Interest Money	34
Receipt to be Endorsed on a Bond	34
Receipt for a Note of a Third Person	35
NOTE.—A Receipt in full, though strong evidence, &c	35
Release of Dower to an Heir	83,84
General Release of all Demands, (C. E.).....	138
Release of all Demands, (C. W.)	138,139
Release to a Guardian.....	139
Release to an Executor.....	139,140
Release to an Administrator.....	140,141
RAIL-WAY COMPANY:	
Deed to a Railway Company.....	90,91
Deed to the Grand Trunk Railway Company	90,90
Deed to the Hamilton and Toronto Railway Company ...	90
N. B. May be Registered without any Memorial	91
REGISTRAR'S OATH:	
Form of Oath to be taken by every Registrar of Deeds, Memorials of Deeds, Conveyances and Wills.....	381
Fees to Registrars of Deeds, Memorials and Wills, &c., &c.	391,392
REAL ESTATE OF MINORS, (C. E.):	
Real Estate of Minors, (C. E.) five Notarial Forms	394 to 396
SECURITY FOR A DEBT OR NOTE:	
Common Form to Secure a Note resigning the Right of Dower.....	102,103
Mortgage by Quit-Claim as Collateral Security for a Note	103,104
Acknowledgment of Debt secured by Mortgage, [<i>Short</i> <i>Form.</i>]	104
Acknowledgment of Debt secured by Mortgage with Power of Sale	104,105
SHERIFF:	
Bail Bond to a Sheriff	133,134
Indemnity Bond to a Sheriff	134,135
Replevin Bond to a Sheriff.....	135
Assignment of Replevin Bond by a Sheriff	135,136

156	156
157	157
157,158	157,158
158	158
158,159	158,159
159	159
159,160	159,160
160	160
33	33
33	33
33	33
33	33
34	34
34	34
34	34
34	34
35	35
35	35
83,84	83,84
188	188
138,139	138,139
139	139
139,140	139,140
140,141	140,141
90,91	90,91
89,90	89,90
90	90
91	91

381
 391,392
 394 to 396
 102,103
 103,104
 104
 104,105
 133,134
 134,135
 135
 135,136

SHERIFF'S DEEDS:		PAGE
Deed Poll.....		92 to 94
Deed of Sale, (C. E)		94,95
Deed of Leasehold Property		95,96
Deed of Sale for Taxes.....		96,97
Sheriff's Deed in Partition.....		97,98
Deed on Foreclosure and Sale.....		98 to 100
TREASURER'S CERTIFICATE:		
Certificate from a Treasurer of a County		29
Treasurer's Certificate to Cancel a Deed		29,30
TOWNSHIP OFFICERS:		
Declaration by a Township Officer.....		186
Bond given by Township Clerk.....		136
Township Collector's Bond		187
Assessor's Oath.....		28
Auditor's Oath		28,29
WARRANTY DEEDS:—See "Conveyances by Deed, &c."		
WILLS:		
Respecting Wills.....		251,252
To Disinherit an Heir at Law		252
A Will of Real and Personal Estate.....		252,253
Another Will of Real and Personal Estate.....		254,255
Various Conclusions to Wills or Codicils, the necessary words being changed		255
Attestations of Wills		255
A Codicil Annexed to, or Endorsed on the Back of a Will		256
WRIT OF REPLEVIN:		
Form of a Writ of Replevin, (C. W.).....		478,479

INDEX

TO THE PARLIAMENTARY ACTS OF CANADA,
COMPRISED IN THIS WORK.

ABSENT DEFENDANT'S ACT:		
An Act to Provide a remedy against Absent Defendants, Canada West, 14 & 15 Vict		485 to 487
Absent Defendants Declaratory Act, C. W. 16 Vict.		487, 488
ACTIONS ON SIMPLE CONTRACT OR DEBT, (C. W.):		
An Act for Rendering a Written Memorandum necessary &c., &c., 18 & 14 Vict		467 to 470
ACTIONS AFFECTING REAL PROPERTY, (C. E.):		
An Act to Amend the Law of (C. E.) In Actions affecting Real Property of Absentees, 14 & 15 Vict.		425, 426
See Limitation of Actions, &c. 10 & 11 Vict.		421 to 423
Actions of Dower, (C. W.) 18 & 14 Vict		844 to 846
APPRENTICES AND MINOR'S ACT, (C. W.):		
An Act to Amend the Law relating to Apprentices and Minors, Canada West, 14 & 15 Vict.		488 to 492
ATTACHMENTS AGAINST PERSONAL PROPERTY, (C. W.):		
An Act to Authorize Attachments against Personal Proper- ty for sums of ten pounds and under, in certain cases in Canada West, 12 Vict.		470 to 477

INDEX.

	PAGE
BANKS AND BANKING:	
The general Banking Laws of Canada.....	257 to 274
Chartered Banks to Declare certain Rights.....	275,276
Bank Notes Act, of 16 Vict. 1853.....	276,277
Savings Banks Public Act.....	277 to 284
Savings' Banks Act continued 14 & 15 Vict. 1851.....	284,285
BILLS OF EXCHANGE AND NOTES ACT, [C. E & W]:	
Bills of Exchange and Notes Act, [C. E.] With Forms.....	285 to 301
Officers of Banks not to act as Notaries.....	301,302
Bills of Exchange Act, [C. W.] Amendment with Forms	302 to 306
CURRENCY AMENDMENT ACT:	
An Act to Regulate the Currency.....	308 to 314
CREDITORS TO ATTACH THE EFFECTS OF DEBTORS:	
An Act to enable Creditors to Attach the effects of Debtors about to leave the Province, in cases under ten pounds, [C. E.] by 14 & 15 Vict.....	424,425
CONVEYANCE OF REAL PROPERTY, [C. W.]:	
An Act to Facilitate the Conveyance of Real Property in Canada West, 9 Vict.....	363 to 369
CORONER ACT, [C. W.]:	
An Act to Amend the Law respecting the Office of Coroner Canada West, 13 & 14 Vict.....	499 to 503
COUNTY COURTS AMENDMENT ACT, [C. W.]:	
An Act to Alter and Amend the Act regulating the Practice of County Courts in Canada West, &c., 13 & 14 Vict... ..	503,504
County Courts Equity Act, Canada West, 16 Vict.....	564 to 574
DIVISION COURTS CONSOLIDATION ACT [C.W.] 13 & 14 Vict.....	505 to 548
Division Courts Extension Act, [C. W.] 16 Vict.....	548 to 563
EJECTMENT ACT, [C. W.]:	
An Act to Alter and Settle the mode of Action of Eject- ment, 14 & 15 Vict.....	322 to 328
FOREIGN JUDGMENTS ACT, [C. E.]:	
Foreign Judgments Admission Act, [C. E.].....	320 to 322
HEIR AND DEVISEE ACT, [C. W.]:	
An Act to Repeal certain Acts, and to make better Pro- visions &c., &c., 8 Vict. 1845	333 to 342
Heir and Devisee Act Amendment, 14 & 15 Vict.....	343,344
INFANTS: Real Estate Act, (C. W.) 12 Vict.	353 to 355
INSOLVENT DEBTOR'S ACT, [C. W.]:	
An Act to Extend the Insolvent Debtor's Act, &c., &c., 14 & 15 Vict. [C. W.].....	482,483
JOINT STOCK COMPANIES:	
An Act to Provide for the Formation of Incorporated Joint Stock Companies for Manufacturing, &c., &c., Act, of 13 & 14 Vict.....	445 to 453
Joint Stock Company's Amendment Act, of 16 Vict.....	453,454
JUSTICES, &c., &c., (C. W.):	
Summary Convictions Act, (C. W.) 16 Vict.....	163 to 209
Indictable Offences Act, (C. W.) 16 Vict.....	209 to 244
An Act to Protect Justices of the Peace, 16 Vict.....	245 to 250
LAW OF EVIDENCE, ACT, [C. W.]:	
An Act to Repeal certain Acts, and to Improve the Law of Evidence in Canada West, 16 Vict.....	314 to 319

257 to 274
275,276
276,277
277 to 284
284,285

285 to 301
301,302
302 to 306

308 to 314

424,425

363 to 369

499 to 502

503,504
564 to 574

505 to 548
548 to 563

322 to 328

320 to 322

333 to 342
343,344
353 to 355

482,483

445 to 453
453,454

163 to 209
209 to 244
245 to 250

314 to 319

INDEX.

LIMITATION OF ACTIONS, ETC., [C. E.]:	
An Act to Repeal a certain Act, and to make better Provision for the Limitation of Actions in Canada East, 10 & 11 Vict.....	421 to 423
LAW IN ACTIONS OF DOWER, [C. W.]:	
An Act to Alter the Practice of the Law in Actions of Dower in Canada West, 13 & 14 Vict., 1850.....	344 to 346
LAW RESPECTING CO-PARTNERSHIPS AND COMPANIES:	
Canada East, 12 Vict.....	594 to 597
LIMITED PARTNERSHIPS, in [C. W.] Act of 12 Vict.....	598 to 600
LEASING OF LANDS AND TENEMENTS, [C. W.]:	
An Act to Facilitate the Leasing of Lands and Tenements [C. W.] 14 & 15 Vict. (ERRATA.—In the third Section of this Act in 4th line commence at by virtue of this Act shall nevertheless be as valid and ef) read instead, and shall bind the parties thereto, as far as the rules of law	359 to 363
LESSOR'S AND LESSEE'S ACT, [C. E.]:	
An Act to Amend certain Rights of Lessors and Lessees, Canada East, 16 Vict.....	405 to 408
Law Repeal Act, 16 Vict.....	409
LAWS OF PATENT'S ACT, [C. E. & W.]:	
An Act to Consolidate and Amend the Laws of Patents for Inventions in this Province, 12 Vict., with the extension of 14 & 15 Vict.....	427 to 443
MARRIED WOMEN'S REAL ESTATE ACT, (C. W.):	
An Act to enable Married Women to convey Real Estate 2 Vict.....	328 to 330
An Act to enable Married Women resident in Foreign Countries to convey Real Estate in (C. W.,) 14 & 15 Vict.	330 to 332
See ERRATA, page 331, in the twelfth line from the top for the word penalty, read personally.	
MORTGAGES TO BE FILED, (C. W.):	
An Act requiring Mortgages of personal Property in Canada West, to be Filed, &c., 12 Vict.....	464 to 466
And the Amendment of the said Act, 13 & 14 Vict.....	466,467
MORTGAGEE'S RELIEF ACT, (C. W.):	
An Act for the Relief of Mortgagees, Canada West, 14 & 15 Vict.....	463,464
INTEREST OF MORGAGOR'S SALE ACT, (C. W.):	
An Act to Provide for the Sale under executions of the Interest of Mortgagors in Real Estate in Canada West, 12 Vict.....	460 to 462
MORTGAGES, REGISTRATION ACT, [C. E.]:	
An Act to Amend and Explain the Ordinance concerning the Registration of Hypothecs in Canada East, 16 Vict.	416 to 420
MASTERS, AND SERVANTS, &c., [C. W. & E.]:	
An Act to Regulate the duties between Master and Servant, &c. &c., Canada West, 10 & 11 Vict.....	492 to 495
An Act to Amend an Act relating to Masters and Servants in Country parts of Canada East, 12 Vict.....	495 to 498
MUNICIPAL LOAN FUND ACT, (C. W.):	
Established by An Act of 16 Vict., Canada West. With the Amendment Act of 16 Vict.....	579 to 594
ERRATA.—The Municipal Corporate Bodie's Act of 14 & 15 Vict. was repealed by 16 Vict. cap. 190, 1853, [See the repealed Act.].....	577 to 579

INDEX.

PAGE

PROTECTION OF MERCHANTS, Etc., [C. E. & W.]:	
An Act for the Better Protection of Merchants and Others who may hereafter receive Assignments and enter into Contracts in relation to goods and merchandize entrusted to Agents, Canada East & West, 10 & 11 Vict.....	454 to 460
REAL PROPERTY ACT, (C. W.) AMENDMENT:	
An Act to Amend the Law respecting Real Property, to enable Mortgagors to Re-possess the same, &c. &c., Canada West, 16 Vict	574,575
SEIZURE AND SALE OF SHARES ACT:	
An Act to Provide for the Seizure and Sale of Shares of Capital Stock of Incorporated Companies, 12 Vict.	488 to 489
STEAMBOATS:	
An Act to Amend an Act, and to Require Steamboats to carry Life Preservers, 16 Vict.....	250,251
SURETIES FOR PUBLIC OFFICERS:	
An Act to Provide for the Discharge of Sureties for Public Officers in certain cases, 14 & 15 Vict	448
Official Securities Act, Amendment, 16 Vict.....	444,445
SMALL CAUSES, Summary Decisions Act, (C. E.).....	575
Small Causes Act Amendment, 16 Vict, (C. E.).....	576,577
USURY LAWS REPEAL ACT:	
An Act to Modify the Usury Laws, 16 Vict	307,308
REAL PROPERTY TRANSFER ACT, [C. W.]:	
An Act to Simplify the Transfer of Real Property in Canada West, &c. &c., 12 Vict	355 to 357
The Transfer Act of 12 Vict. Amended by 14 and 15 Vict.	357 to 359
REAL ESTATE, DIVISION OF, [C. W.]:	
An Act to Abolish the Right of Primogeniture, 14 & 15 Vict.....	347 to 353
INFANTS' REAL ESTATE ACT, [C. W.]:	
An Act to Provide for the Sale of the Real Estate of Infants, Canada West, &c. &c., 12 Vict	353 to 355
REGISTER YOUR DEEDS, Etc., [C. W.]:	
An Act to Compel the Registration of Deeds and Instruments, &c. &c., 14 & 15 Vict	370,371
REGISTRY LAWS, [C. E. & W.]:	
An Act to Consolidate and Amend the Registry Laws, Canada West, 9 Vict., Amended by 13 & 14 Vict	371 to 387
And the Registry Laws Amendment Act, [C. W.] 16 Vict.	388 to 392
Registry Laws Act, [C. E.] 8 Vict., and 14 & 15 Vict	410 to 416
Registration of Mortgages Act, Canada East, 16 Vict.....	416 to 420
REAL ESTATE OF MINORS, [C. E.]:	
An Act to Regulate the Proceedings in cases of Voluntary Licitation, with Forms, 16 Vict.....	393 to 396
REAL PROPERTY DETENTION ACT, [C. E.]:	
An Act to Provide a more Summary and less Expensive process for Proprietors, &c. &c., 14 & 15 Vict, (C. E.) ..	397 to 402
The said Act Amended by 16 Vict.....	402 to 404
REPLEVIN, LAW AMENDED RELATING TO:	
An Act to Amend and Extend the Law relating to the Remedy by Replevin in Canada West, 14 & 15 Vict ...	478 to 482

INDEX TO SUPPLEMENT

	PAGE.
TO PARLIAMENTARY ACTS, [C. E. & W.] :	
Accounts in dollars and Cents Act, 19 Vict., 1857 ..	603 to 604
BANKS, &c., may take Bills of Lading, &c.:	
As Security Act, 22 Vict., 1859	660 to 661
CON. MUNICIPAL LOAN FUND Amendment Act, 22 Vict., 1859	654 to 659
FREEDOM OF BANKING, Amendment Act, 19 Vict., 1856	
Savings' Bank Amendment Act, 19 Vict., 1856,	633 to 634
FRAUDS BY TRUSTEES, BANKERS, &c., ACT, 22 Vict., 1859	637 to 641
FORGERY LAWS Amendment Act, 22 Vict., 1859	666
FALSE PRETENCES, Amendment Act, 22 Vict., 1859	608 to 609
HOMŒOPATAY, PUBLIC ACT :	
An Act respecting Homœopathy, 22 Vict., 1859	690 to 692
JOINT STOCK COMPANIES Amendment Act, 22 Vict., 1859	646 to 647
Amended by 22 Vict., 1859	679
LIBRARY ASSOCIATIONS, Amendment Act, 19 Vict., 1856	601
PATENTS FOR INVENTIONS, Extension Act, 20 Vict., 1857	634 to 636
RATE OF INTEREST ACT :	
An Act to Amend the Laws, 22 Vict., 1858	644 to 646
REGISTRATION OF DEBENTURES ACT, 22 Vict., 1858..	647 to 652
REGISTRATION OF DEBENTURES, Amendment Act, 22 Vict., cap. 23, 1859	665 to 667
WEIGHTS AND MEASURES ACT :	
An Act to Amend the Laws, 22 Vict., 1859	662 to 664

ACTS, FOR C. E.

AGRICULTURAL SOCIETIES Amendment Act, [C. E.,] 20 Vict., 1857	607 to 608
An Act to Legalize Certain Proceedings	701 to 704
BUILDING SOCIETIES, [C. E.] :	
An Act to Amend, 22 Vict., 1859	704 to 706
COUNTY ASSESSMENTS ACT, [C. E.] :	
An Act to Enable County Municipalities to recover Certain Dues, 22 Vict., 1859	699 to 700
DURHAM INDIAN LANDS ACT, [C. E.] 19 Vict., 1856...	604 to 607
FOREIGN EXECUTORS ACT, [C. E.,] 22 Vict., 1858	641 to 643
FRAULENT CONVEYANCE ACT, [C. E.] :	
An Act to Prevent, 22 Vict., 1859	698
GROUND RENTS AND LIFE RENTS, [C. E.] :	
An Act to Amend, 22 Vict., 1859	693 to 695
MUTUAL FIRE INSURANCE COMPANIES, [C. E.] :	
An Act to Amend, 22 Vict., 1859	706 to 707
PROOF OF INSTRUMENTS IN, [C. E.] :	
An Act to Facilitate, 22 Vict., 1858	643 to 644
Amended by 22 Vict., 1859	696 to 697
PARTNERSHIP SEPARATE PROPERTY ACT, [C. E.] :	
An Act for the Distribution of 22 Vict., 1859	653
UNINCORPORATED COMPANIES Extinsion Act, [C. E.] 19 Vict., 1856	601,602

INDEX.

	PAGE.
ACTS FOR C. W.	
AGRICULTURE ACT, [C. W.] :	
An Act for the Promotion of, 22 Vict., 1859	679 to 684
BILLS OF EXCHANGE, [C. W.] :	
An Act to Repeal Certain Portion, 22 Vict., 1859....	669
BUILDING SOCIETIES, [C. W.] :	
An Act to Amend the Law Respecting, 22 Vict., 1859	684 to 687
COUNTIES UNITED FOR MUNICIPAL PURPOSES, [C.W.]	
20 Vict. 1857.....	628,629
FERRIES, [C. W.] :	
An Act to Amend the Act, 22 Vict. 1859.....	677
JUDICIAL DISTRICTS FEES, &c., [C. W.] :	
By An Act of Parliament	636,637
MUNICIPAL LAWS, [C. W.] :	
An Act to Amend, 20 Vict. 1857.....	627,628
MATRIMONY AMENDMENT ACT, [C. W.] :	
20 Vict., 1857	622 to 626
MARRIED WOMEN, PROPERTY, [C. W.] :	
An Act to Amend the Law, 22 Vict., 1859.....	674 to 675
SEPARATE PROPERTY TO MARRIED WOMEN, [C. W.] :	
An Act to Secure, 22 Vict., 1859.....	669 to 674
PERSONAL MORTGAGES, [C. W.] :	
An Act to Amend, 20 Vict. 1857.....	608 to 612
PRIMOGENITURE AMENDMENT ACT, [C. W.,] 20 Vict.,	
1857.....	613 to 622
REGISTRARS OF COUNTIES, [C. W.] :	
An Act to Relieve Registrars of Certain Disabilities,	
22 Vict., 1859	676,677
REGISTERING PLANS OF VILLAGES, [C. W.] :	
An Act to Amend the Act, 22 Vict., 1859	678

N. B.—The following Acts are Repealed:—

The Act for the Disposal of Road Allowances in C. W. Also the Act for Houses of Public Entertainment is Repealed.—See pages 629 to 632 in the Supplement.

County and Division Courts Acts have been omitted, as the Publisher thought that those Acts were sufficiently known by all persons for the past two or three years.

The paging of the Supplement is a continuation of the Legal forms and Law Manual.

FORMS.

Form of Durham Indian Lands Receipt.....	606,607
Schedule Forms to Registration Debentures Act.....	651,652
Form of Return to Auditor	667
Fees for Registration of Debentures.....	650
Agricultural Societies Form	684
Schedule Form to Seignioral Amendment Act.....	692,693
Landlord's Warrant.....	707
Schedule of Costs for Small Rents and Penalties.....	707
Printed Advertisement.....	708
Inventory of Goods Distrained.....	708
Notice, Distress.....	708
Appraiser's Oath.....	708
Form of Appraisement.....	708

IMPORTANT LEGAL FORMS & STATUTES.

(See *RICHMOND'S INDEX*.)

POST OFFICE DEPARTMENT.

HONORABLE SIDNEY SMITH, Post-master General.

W. H. GRIFFIN, Esq., Deputy Post-master General.

RATES OF POSTAGE, &c., &c., 1860.

LETTER RATES.

LETTERS POSTED in Canada addressed to any place within the Province pass, if prepaid, for 5 cents per $\frac{1}{2}$ oz., but if posted unpaid such letters are charged 7 cents per $\frac{1}{2}$ oz.

ON LETTERS to Nova Scotia, New Brunswick, and Prince Edward's Island, the rate is 5 cents per $\frac{1}{2}$ oz., with optional prepayment.

The rate on Letters to the United Kingdom is,

By Canadian Packet,.....	12 $\frac{1}{2}$ cents per $\frac{1}{2}$ oz.
“ Cunard “	17 “ “

LETTERS FOR THE UNITED KINGDOM must be prepaid, or they will be charged a fine of 6d. sterling on arrival in England.

LETTERS for British Colonies and Possessions beyond Sea, and Foreign Countries, via England, must be prepaid.

The rate on Letters for the U. States,

(except California and Oregon) 10 cents per $\frac{1}{2}$ oz.

“ for California and Oregon..... 15 “ “

REGISTRATION CHARGES.

For THE Registration of a Letter addressed to any place in British North America, the charge is 2 cents.

For the Registration of a Letter to U. Kingdom, 12 $\frac{1}{2}$ “	
“ “ “ U. States....	5 “

MISCELLANEOUS CHARGES.

THE CHARGE ON PARCELS by Parcel Post to any place in Canada is 25 cents per lb. (with 5 cts. additional if Registered.)

ONE CENT per oz., payable in advance by Postage, stamps is the rate on Books bound or unbound, Printed Circulars, Prices Current, Hand Bills and other printed Matter of a like character, when posted at a Canadian Post Office, addressed to any place in Canada, British North America generally, or United States.

THE CHARGE ON BOOKS, &c., by Book Post to England, is 7 cents on packets not exceeding 4 oz. in weight, 12½ cents on ½ lb. packets, and 12½ cents additional for every additional ½ lb. These charges must be prepaid.

BOOK POST WITH FRANCE.

For a Packet of Printed matter, or single Newspaper, Book, &c. not over 2 oz. 4 cents.

Do. exceeding 2 oz. and " 4 oz. 8 "

Do. " 4 oz. and " 8 oz. 17 "

Do. " 8 oz. and " 1 lb. 34 "

And so on increasing 17 cents for each additional ½ lb.

The Book Post regulations between Canada and England apply to matter between Canada and France.

NEWSPAPERS AND PERIODICALS.

NEWSPAPERS published in Canada may be sent by post from the Office of publication addressed to any place in Canada at the following rates *if paid quarterly in advance* by either the publisher at the post office where the papers are posted, or by the subscriber at the delivering Post Office :

For a paper published 6 times a week, 40 cents per quarter.

" " 3 " 20 " "

" " 2 " 13 " "

" " 1 " 6½ " "

When the above rates are not paid in advance by either publisher or subscriber, such Papers are charged one cent each on delivery.

TRANSIENT NEWSPAPERS.

TRANSIENT NEWSPAPERS, that is to say, Canadian Newspapers posted otherwise than from the office of publication, and American or British Papers posted or reposted in Canada, must be prepaid 1 cent each, by postage stamp, or they cannot be forwarded—except only *British Newspapers* distributed to regular subscribers by Canadian Booksellers or News Agents—such papers pass free as they would do if received in the Canadian Packet Mails.

NEWSPAPERS BY MAIL FROM ENGLAND OR UNITED STATES.

NEWSPAPERS received from England by the Canadian Packet Mails are delivered free.

Newspapers from England by the Cunard Packet Mails are charged 2 cents each on delivery. (This is the American Transit charge.)

United States Newspapers, brought by Mail into Canada, are charged one cent each on delivery.

PERIODICAL PUBLICATIONS.

THE RATE on Periodical Publications is, if not exceeding 3 ounces in weight, 1 cent; over 3 ounces, 4 cents.

If prepaid by postage stamps from the office of publication, Periodicals *published in Canada*, weighing over 3 oz., may pass for 2 cents each.

Periodicals, *printed in this Province*, other than Newspapers, when specially devoted to Education (both religious and general) to Agriculture, to Temperance, or to any branch of science, and addressed directly from the office of publication to be transmitted to any post office in this Province, are exempt from charge.

ats on packets
cents addi-

TRANSIENT PERIODICALS—including Canadian Periodicals not prepaid the commuted rate from the office of publication—nor exempted by the preceding clause, and all other Periodical publications posted in this Province, must be prepaid by Stamp, the full rate, at the time of posting.

Periodicals received in the Mails from the United States are charged with the rates named in the first clause of this section.

POSTAGE STAMPS.

POSTAGE Stamps of the respective values of 1 cent for Newspapers; 5 cents for ordinary Provincial Letters; 10 cents for United States rate; 12½ cents for Canadian Packet; and 17 cents for Cunard Packet, are provided for sale to the public.

PENAL CLAUSES.

The Act contains the following penal clause:—

To inclose a letter or letters, or any writing intended to serve the purpose of a letter, in a Parcel posted, for the Parcel Post, shall be a misdemeanor.

To inclose a letter or any writing, or to make any written marks to serve the purpose of a letter, or to inclose any other thing in a newspaper posted to pass as a newspaper, at the rate of postage applicable to newspapers, (except in the case of accounts and receipts of newspaper publishers, which are permitted to pass folded within the newspapers sent by them to their subscribers,) shall be a misdemeanor.

MONEY ORDERS.

MONEY ORDERS payable in the Province may be obtained at any office in the annexed list, at the following rates:

Commission chargeable upon Money Orders.

Under and up to \$10.....	5 cents.
Over \$10 and not exceeding \$20	10 do.
Do. 20 do. do. 30	15 do.
Do. 30 do. do. 40	30 do.
Do. 40 do. do. 60	45 do.
Do. 60 do. do. 80	60 do.
Do. 80 do. do. 100	75 do.

N. B.—No half cents to be introduced in the Orders.

No single Order can be issued for more than \$100.

Money Orders, payable at any Money Order Office in Great Britain and Ireland, can be obtained at any Canadian Money Order Office. The orders are drawn in Sterling, the Commission chargeable being: for £2 and under, one shilling sterling; from £2 to £5, two shillings. No order can be drawn for more than £5, but any number of orders of £5 each may be procured.

MONEY ORDER OFFICES IN CANADA EAST AS FOLLOWS:—

Aylmer, C. E.	Lacolle, C. E.	Rivière du Loup, C. E.
Berthier (en haut).	Laprairie, C. E.	St. Anne la Pocat, O. E.
Chambly, C. E.	Lennoxville, C. E.	St. Andrews, C. E.
Coaticook, C. E.	Longueuil, C. E.	St. Eustache, C. E.
Compton, C. E.	Melbourne, C. E.	St. Hyacinthe, C. E.
Danville, C. E.	Montmagny, C. E.	St. Johns, C. E.
Granby, C. E.	Montreal, C. E.	St. Pie, C. E.
Hatley, C. E.	Napierville, C. E.	St. Therese de Blainville.
Huntingdon, C. E.	Nicolet, C. E.	Sherbrooke, C. E.
Industry, C. E.	Philipsburg, C. E.	Stanstead, C. E.
Kamouraska, C. E.	Pike-River, C. E.	Terrebonne, C. E.
Lachine, C. E.	Quebec, C. E.	Three Rivers, C. E.
Lachute, C. E.	Rimouski, C. E.	Waterloo, C. E.
	Wm. Henry (Sorel), C. E.	

MONEY ORDER OFFICES IN CANADA WEST AS FOLLOWS;—

Albion, C. W.
 Almonte, C. W.
 Amherstburg, C. W.
 Angus, C. W.
 Arkona, C. W.
 Aultsville, C. W.
 Aurora, C. W.
 Aylmer, C. W.
 Ayr, C. W.
 Barrie, C. W.
 Bath, C. W.
 Bayfield, C. W.
 Beachville, C. W.
 Beamsville, C. W.
 Beaverton, C. W.
 Belleville, C. W.
 Bentinck, C. W.
 Berlin, C. W.
 Bond Head, C. W.
 Bothwell, C. W.
 Boymanville, C. W.
 Bradford, C. W.
 Brampton, C. W.
 Brantford, C. W.
 Brighton, C. W.
 Brockville, C. W.
 Brooklin, C. W.
 Burford, C. W.
 Carleton Place, C. W.
 Cayuga, C. W.
 Chatham, C. W.
 Chippawa, C. W.
 Clifton, C. W.
 Clinton, C. W.
 Cobourg, C. W.
 Colborne, C. W.
 Collingwood, C. W.
 Cookstown, C. W.
 Cooksville, C. W.
 Cornwall, C. W.
 Craighurst, C. W.
 Credit, C. W.
 Dereham, C. W.
 Dickinson's L'dg., C. W.
 Drummondville, C. W.
 Dundas, C. W.
 Dunnville, C. W.
 Elora, C. W.
 Embro', C. W.
 Erin, C. W.
 Etobicoke, C. W.
 Fergus, C. W.
 Fingal, C. W.
 Fort Erie, C. W.
 Galt, C. W.
 Gananoque, C. W.
 Georgetown, C. W.
 Georgina, C. W.
 Glenallan, C. W.
 Goderich, C. W.
 Grafton, C. W.

York, C. W.
 Grimsby, C. W.
 Guelph, C. W.
 Hamilton, C. W.
 Harpurhey, C. W.
 Harriston, C. W.
 Hawksbury, C. W.
 Hespeler, C. W.
 Holland Landing, C. W.
 Indiana, C. W.
 Ingersoll, C. W.
 Inverhuron, C. W.
 Iroquois, C. W.
 Keene, C. W.
 Kemptville, C. W.
 Kincardine, C. W.
 Kingston, C. W.
 L'Original, C. W.
 Lanark, C. W.
 Leeds, C. W.
 Lindsay, C. W.
 Listowel, C. W.
 Lloydtown, C. W.
 London, C. W.
 Lyn, C. W.
 Manilla, C. W.
 Markham, C. W.
 Merrickville, C. W.
 Millbrook, C. W.
 Milton, C. W.
 Mitchell, C. W.
 Mono Mills, C. W.
 Morpeth, C. W.
 Morrisburg, C. W.
 Mount Brydges, C. W.
 Napanee, C. W.
 Newboro, C. W.
 Newburg, C. W.
 Newbury, C. W.
 Newcastle, C. W.
 New Hamburg, C. W.
 Newmarket, C. W.
 Niagara, C. W.
 Norwich, C. W.
 North Port, C. W.
 Oakville, C. W.
 Odessa, C. W.
 Omemee, C. W.
 Orangeville, C. W.
 Orilla, C. W.
 Oshawa, C. W.
 Ottawa, C. W.
 Otterville, C. W.
 Owen Sound, C. W.
 Paisley, C. W.
 Pakenham, C. W.
 Palermo, C. W.
 Paris, C. W.
 Pembroke, C. W.
 Pentanguishene, C. W.
 Perth, C. W.

Peterboro', C. W.
 Pickering, C. W.
 Picton, C. W.
 Portage du Fort, C. W.
 Port Colborne, C. W.
 Port Dalhousie, C. W.
 Port Dover, C. W.
 Port Hope, C. W.
 Port Robinson, C. W.
 Port Rowan, C. W.
 Port Sarnia, C. W.
 Port Stanley, C. W.
 Prescott, C. W.
 Preston, C. W.
 Renfrew, C. W.
 Richmond Hill, C. W.
 St. Catharines, C. W.
 St. George, Brant, C. W.
 St. Mary's, Bland, C. W.
 St. Thomas, C. W.
 Sandwich, C. W.
 Saugeen, C. W.
 Seneca, C. W.
 Shannonville, C. W.
 Sharon, C. W.
 Simcoe, C. W.
 Smith's Falls, C. W.
 Smithville, C. W.
 Sparta, C. W.
 Stirling, C. W.
 Stoney Creek, C. W.
 Stouffville, C. W.
 Strabane, C. W.
 Stratford, C. W.
 Strathroy, C. W.
 Streetsville, C. W.
 Thornhill, C. W.
 Thorold, C. W.
 Toronto, C. W.
 Trenton, C. W.
 Uxbridge, C. W.
 Vankleekill, C. W.
 Vittoria, C. W.
 Walkerton, C. W.
 Wardsville, C. W.
 Warwick, C. W.
 Waterdown, C. W.
 Waterford, C. W.
 Waterloo, C. W.
 Welland, C. W.
 Wellesley, C. W.
 Wellington Square, C. W.
 West Flamboro', C. W.
 Weston, C. W.
 Whitby, C. W.
 Williams, C. W.
 Windsor, C. W.
 Woodbridge, C. W.
 Woodstock, C. W.
 Wroxeter, C. W.

MASTER AND SERVANT. (C. W.)

CAP. CXXXVI.

AN ACT TO AMEND THE ACT TO REGULATE THE DUTIES BETWEEN MASTER AND SERVANT IN CANADA WEST.

[Assented to 30th May, 1855.]

WHEREAS it appears that doubts have been entertained whether the Act hereinafter mentioned, does or does not extend and apply to Journeymen or skilled Labourers in the various trades and callings, and their respective Masters or Employers: For the removal of such doubts, Be it therefore declared and enacted &c.,

Preamble.

I. That the Act passed in the Session held in the tenth and eleventh years of Her Majesty's Reign, and intituled, *An Act to regulate the duties between Master and Servant, and for other purposes therein mentioned*, extends and applies to Journeymen or skilled Labourers in any trade, calling, craft or employment, and to their Masters, that is to the tradesmen or persons employing them as such Journeymen or skilled Labourers, as fully to all intents and purposes as to other Servants and Labourers and their Masters or persons employing them, and the said Act shall be construed and have effect accordingly.

Act 10 & 11 V. c. 23, declared to apply to Journeymen and skilled Labourers.

II. Notwithstanding any thing contained in the Act last above cited, the provisions of the said Act shall apply to engagements entered into for the performance of any service or work, and to the parties thereto, whether the same may have actually been entered upon or not.

Act to apply to engagements made whether entered upon or not. See Act, on pages 492 to 495.

FENCES AND WATER COURSES.

AN ACT TO AMEND THE ACT RELATING TO LINE FENCES AND WATER COURSES IN CANADA WEST.

[Assented to 30th May, 1855.]

WHEREAS it is by the third section of the Act of the eighth Victoria, Chapter twenty, provided, that the party who shall neglect or refuse to make or repair an equal or just proportion of the division or line fence, shall pay therefor a sum not exceeding the sum of two shillings and six pence currency, per rod; And whereas it is found from the scarcity of timber and materials in many localities, that the said sum of two shillings and six pence per rod aforesaid, is not an adequate or fair remuneration to the party who shall make such fence: Be it therefore enacted &c.,

Preamble

s V. c. 20.

I. So

FENCES AND WATER COURSES. (C. W.)

Value of fence to be determined in the same way as the proportion to be made by each party.

I. So much of the said third section of the above recited Act, as limits the said sum to two shillings and six pence per rod, is hereby repealed, and the amount shall be determined in like manner as is provided by the said Act as to the parties who shall pay therefor, and the parties may be heard to ascertain the amount in like manner as they may be heard as to the proportion of fence to be made.

DEEDS, &c., BEFORE WITNESSES, (C. E.)

REGISTRATION AT FULL LENGTH OF DEEDS BEFORE WITNESSES AND ITS EFFECT, AS PER CONSOLIDATED STATUTES C. E. 1860. AND FOR THE BETTER PRESERVATION OF TITLES TO REAL ESTATE, EXECUTED BEFORE WITNESSES: CAP. 37.

Sec. 76.
Titles to lands may be registered at full length.

ANY PERSON having or claiming Title to any Real Estate in Lower Canada, may register at full length the deeds, conveyances, wills or writings, executed before witnesses, by or under which such title is claimed, and the Registrars are hereby authorized to register such deeds, conveyances, wills and writings as shall be so brought to be registered, by engrossing them in books; and the said Registrars shall, in the margin of every such entry, mention the time of every such entry and registration, and shall sign a certificate on such deed, conveyance, will or writing, and shall safely keep the books wherein such entries and registrations shall be made, in their offices; and all copies of such entries and enrolments of such deeds, conveyances, wills and writings, so registered, certified by the said Registrars respectively, shall be sufficient evidence of such deeds, conveyances, wills and writings, so registered, if the originals be destroyed by fire or other accident. 4 V. c. 30, s. 40.

On deed being so registered, witness to make oath to its due execution.

77. When any deed, conveyance, will or writing is brought to the Registrar's Office to be registered at full length as aforesaid, one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall make oath before the said Registrar, that such deed, conveyance or writing was duly executed by the grantor, or that such will was signed by the testator. 4 V. c. 30, s. 41.

Certain affidavit necessary if such deed be not executed in Registration Division where registered.

78. Such deeds, conveyances, wills and writings, if executed or published in any place in *this Province*, not being within the Registration Division in which the lands therein mentioned lie, may be registered at full length, if an affidavit sworn before
one

REGISTRATION OF DEEDS PASSED BEFORE WITNESSES.

one of the Judges of the Court of Queen's Bench or Superior Court, or before any Commissioner for taking affidavits to be used in the Superior Court, be brought with such deed, conveyance, will or writing, to the Registrar, wherein one of the witnesses to the execution of such deed, conveyance or writing, or to the signing and publishing of such will, shall swear that he saw the said deed, conveyance or writing executed, or such will signed and published by the testator. 4 V. c. 30, s. 42.

80. Every such registration at full length of such deeds, conveyances, wills, and writings, shall be adjudged to be the entry of a memorial thereof pursuant to this Act, and shall have the same effect upon the real estate therein mentioned, as if a memorial of such deed, conveyance, will or writing, had been registered in the same registry office; and the certificate on such deeds, conveyances, wills and writings, shall be evidence of such registration. 4 V. c. 30, s. 44.

Such Registration at length to be equivalent to entry of a memorial.

NINE—A CERTIFICATE TO DISCHARGE A MORTGAGE. TO THE REGISTRAR OF THE DISTRICT OF MONTREAL.

I, A. B. of, &c., (*the mortgagee in the deed or his heirs, executors, curators or administrators.*) do hereby certify that C. D. of &c., hath paid the sum of money due upon a deed or mortgage, bearing date the _____ day of _____ in the year of Our Lord _____ made between the said C. D., of the one part; and me the said A. B., of the other part; a memorial whereof was registered on the _____ day of _____ in the year of Our Lord _____; And I hereby require an entry of such payment to be made in the register wherein the same is registered, pursuant to law. As witness my hand, this _____ day of _____ in the year of Our Lord _____

A. B.

Signed in the presence of
O. P. of, &c.
R. S. of, &c.

INSOLVENT DEBTORS, (C. E.)

CAP. LXXXVII.

SECTIONS ONE AND TWO OF THE ACT RESPECTING ARREST AND IMPRISONMENT FOR DEBT AND THE RELIEF OF INSOLVENT DEBTORS.—CONSOLIDATED STATUTES, 1860.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

OF

Of Capias ad Respondendum—Security—and Allowance of the Prisoner.

Writ of *capias* may issue in certain cases on affidavit that defendant is about to abscond, &c.

1. Subject to the provisions and exceptions hereinafter made,—In all cases in which a judge of the Superior Court, a prothonotary of the said court, or a clerk of the Circuit Court, in the district in which he is prothonotary or clerk, is satisfied by the affidavit of the plaintiff, or his book-keeper, clerk or legal attorney, that the defendant is personally indebted to the plaintiff in a sum amounting to or exceeding forty dollars, lawful money of this province, and also that such plaintiff, his book-keeper or legal attorney hath reason to believe, and doth verily believe, upon grounds to be specially set forth in such affidavit, that the defendant is immediately about to leave the province of Canada, with intent to defraud his creditors generally or the plaintiff in particular, and that such departure would deprive the plaintiff of his remedy against the defendant, or that the defendant hath secreted or is about to secrete his property with such intent, such judge, prothonotary or clerk may grant a *capias* or attachment against the body of such defendant, to be directed to the sheriff or a bailiff of the Superior Court, as prescribed by law, to take and arrest such defendant, who may be held to bail by the sheriff for his appearance in the manner prescribed by law; and in default of bail, such defendant shall be committed to prison and there remain until special bail be given by such defendant, or other security according to law: 25 G. 3, c. 2, s. 4,—12 V. c. 42, ss. 2, 12,—12 V. c. 38, ss. 19, 63.

Arrest may be made on affidavit before Commissioner for receiving affidavits.

2. Such arrest may also be made, on an affidavit to the like effect made before a Commissioner for receiving affidavits to be used in the Superior Court, under a warrant of arrest to be issued by such Commissioner, under and subject to the provisions of section fifty-four or chapter eight-three of these Consolidated Statutes. 9 G. 4, c. 27, s. 2, &c.

On what affidavit a person resident in U.C. may be arrested.

2. No writ of *capias ad respondendum* shall be granted or issued at the suit of any person residing in Upper Canada against any person residing within the limits of Upper Canada, unless, in addition to the affidavit required by this Act and by any other law, the plaintiff or some other person makes oath before a judge of the Superior Court, or before any other officer authorized to receive such oath, that the defendant is immediately about to resort to some country or place without the limits of Upper Canada, and hath not, within the limits of Upper Canada, any lands or other immoveable estate out of which the plaintiff can reasonably expect to be paid the amount of his debt. 5 G. 4, c. 2, s. 3.

LANDLORD AND TENANT ACT.,

As per Consolidated Statutes C. E. 1860.

CAP. XL.

AN ACT RESPECTING LESSORS AND LESSEES.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

RIGHTS OF LESSOR.

1. The Lessor or Proprietor shall have a right of action under this Act:

Lessor has an action to rescind lease, when

1. To rescind the lease, when the tenant fails to garnish the house, tenement, farm or premises leased with sufficient furniture or stock to secure the rent as required by law;

Tenant fails to garnish;

2. To rescind the lease, when the tenant commits waste upon the premises leased;

Or commits waste;

3. To rescind the lease, when the tenant uses the premises leased for illegal purposes, or contrary to the evident intent for which they are leased;

Or uses premises for illegal purposes.

4. To recover possession of the property leased in all cases when there is a cause for rescission of the lease, and when the tenant continues in possession of the premises leased, against the will of the proprietor or lessor after the expiration of the lease, or without paying the rent according to the stipulations of the lease, when a lease exists, or according to the *sixteenth* section of this Act when there is no lease;

Lessor may bring an action to recover possession.

5. To recover damages arising from a violation of an agreement of lease, or of the legal obligations arising from the relation of lessor and lessee;

For damages on contravention of lease or law.

6. To join with any action to enforce the aforesaid remedies, a *demande* for rent due, or to which the lessor or proprietor is entitled, with or without attachment (*saisie gagerie*), and to exercise the *droit de suite* when necessary. 18 V., c. 108, s. 2.

Recovery of rent.

RIGHTS OF LESSEE.

2. The Lessee shall have the right of action—

Right of action of Lessee as regards—

1. To compel the proprietor or lessor to make the repairs and ameliorations stipulated in the lease, or incumbent upon him by law, of the property leased, and to obtain power to make such repairs at the expense of such proprietor, or (if such lessee so declares his option) to have a rescission of the lease in default of such repairs and ameliorations being made;

Repairs.

2. For

Cap. 40. LESSOR AND LESSEES—RIGHTS, PROCEDURE, &c. (C. E.), 1860:

Damages for
contravening
lease or law.

2. For the recovery of damages arising out of an agreement of lease, or of the relation of lessor and lessee;

Rescission of
lease for breach
of contract.

3. For the rescission of a lease for a breach of the contract on the part of the lessor, or a failure to perform the obligations devolving upon him by law. *Ib.* s. 3.

PROCEDURE UNDER THIS ACT.

Defence by tenant.

3. Any tenant, sued under this Act, may urge any matters in defence, which he could urge, if sued under the ordinary process of law. *Ib.* s. 4.

Where actions
may be brought.

4. Actions under this Act shall be instituted in the usual manner in the Superior or Circuit Court; and the annual value or rent of the property leased shall determine the jurisdiction of the Court, whatever be the amount of damages and rent sued for. *Ib.* s. 5.

Powers of Judge
in vacation.

5. Any judge of the Superior Court in vacation shall have and exercise, on any judicial day, all the powers of the Superior Court in term, in all suits instituted in such Court under this Act. *Ib.* s. 6.

In the Circuit
Court.

6. Any judge of the Superior or Circuit Court shall have the same power in vacation as in term of the Circuit Court, to hear and determine suits under this Act. *Ib.* s. 7.

To what such
powers shall extend.

7. It shall be competent for the Court or Judge, as the case may be, to hear and determine all cases arising under this Act, or growing out of the relation of lessor or lessee, and award costs and every process necessary to enforce Judgment. *Ib.* s. 8.

By whom writs
be executed.

8. Writs of summons, attachment and execution, shall be directed to and executed by the officers to whom the like writs in other cases in the Superior and Circuit Court are directed and executed, except writs of possession issuing in the Circuit Court in any suit under this Act, which last mentioned writs shall be directed to and executed by a Bailiff of the Superior Court. *Ib.* s. 9.

Arrêt simple
may be sued out
in suits for rent.

9. It shall be lawful in any action brought under this Act, with which a *demande* for rent is joined, to sue out a writ of *saisie arrêt* or *arrêt simple* founded upon affidavit according to law, and any moveables seized under such writs which have been used to furnish the property leased, if seized upon the premises leased, or after their removal, but within eight days thereafter, shall be sold subject to the privilege of rent, in the same manner as if seized by *saisie gagerie*. *Ib.* s. 10.

Delay between
service and
summons.

10. One clear day between service of summons and the return thereof in any suit under this Act, shall be sufficient when the place of service is within five leagues from that of the sitting of the Court, and an additional delay of one day for every additional five leagues. *Ib.* s. 11.

of an agree-
lessee;

of the con-
perform the
3.

y urge any
sued under

nted in the
rt; and the
he jurisdic-
d rent sued

ecation shall
ne powers of
Court under

Court shall
of the Cir-
s. 7.

or Judge, as
cases arising
tion of lessor
nforce Judg-

l execution,
pers to whom
and Circuit
ssuing in the
tioned writs
r Court. *Ib.*

nt under this
d, to sue out
upon affida-
a writs which
the premises
fter, shall be
s if seized by

ummons and
Act, shall be
n five leagues
delay of one

11. If

Cap. 40. LESSOR AND LESSEES—RIGHTS, PROCEDURE, &C. (C. E.), 1860.

11. If the Defendant does not appear on the day of the return of the writ of summons, and before noon of the said day, default shall be recorded against him, and the Plaintiff shall be permitted to proceed *ex parte*; if the Defendant appears, he shall be held to plead in writing before noon of the next juridical day following the return day of the writ, and in default thereof, the Plaintiff may, upon filing certificate of such default to plead, proceed *ex parte*. *Ib.* s. 12.

In case of default.

12. The Plaintiff shall be held to answer the plea of the Defendant on or before noon of the juridical day next after the filing thereof, and in default thereof the Defendant may obtain from the Prothonotary or Clerk of the Court, *acte* of foreclosure of the Plaintiff from the right of filing such answer, upon application therefor founded upon mere lapse of time and such default to answer, without any demand of plea or service thereof; and every subsequent pleading rendered necessary shall be made and filed before noon of the next juridical day after the filing of the Plaintiff's answer, and in default thereof foreclosure shall be granted to the Plaintiff, and he shall be permitted to proceed to trial and judgment without further completion of the issues in such cause. *Ib.* s. 13.

Delay for answering plea.

For subsequent pleadings.

13. In causes under this Act, when the issues are complete or either party has obtained foreclosure or right to proceed *ex parte*, the plaintiff or defendant may inscribe the cause upon the roll *des enquêtes* for any juridical day subsequent to the day of the filing of such inscription, and proof shall be adduced on such day, and continued from day to day till closed by both parties:

Enquêtes.

2. And whenever on any *enquête* day the party whose *enquête* is proceeding shall cease to adduce further evidence, his *enquête*, on the application of the opposite party, shall be declared closed; and upon the *enquête* of both parties being closed, either plaintiff or defendant may inscribe the cause for final hearing on the next juridical day after the closing of such *enquête*, without notice to the opposite party, but if such cause is inscribed upon any day subsequent to such last mentioned day, notice thereof shall be served upon the opposite party. *Ib.* s. 14.

Closing *Enquêtes.*

14. *Enquêtes* in suits or actions instituted under this Act in the Circuit or Superior Court, shall be taken in writing unless the parties agree to take them otherwise; and if in any case the *enquête* is not taken in writing, by consent of parties, the Court or Judge before whom such case proceeds, shall take minutes of the evidence, which minutes shall be deposited of record, and in the event of such case being appealed, such minutes of evidence shall, for the purposes of such appeal, be treated as the evidence adduced in such case. *Ib.* s. 17.

Enquêtes to be in writing unless by consent, in which case the Judge shall take notes.

15. An appeal shall be allowed from any judgment rendered in a suit under this Act instituted in the Circuit Court, to the Superior Court, and in suits instituted in the Superior Court, to the Court of Queen's Bench, under the same rules and subject to

Appeals and to what Courts.

to

Cap. 40. LESSOR AND LESSEES—RIGHTS, PROCEDURE, &c. (C. E.), 1860.

to the same conditions as other appeals are instituted from judgments of the said Courts, as well if such judgments are rendered in vacation as in term. *Ib.* s. 15.

Persons holding by permission to be held to be lessees.

16. Persons holding real property by permission of the proprietor, without lease, shall be held to be lessees and bound to pay to the proprietor the annual value of such property, and their term of holding shall expire on the first day of May of each year, and such holding shall be treated for the purposes of this Act, as an annual hiring or lease, subject to *tacite reconduction* and all rules of law applicable to leases, and the person so in occupation shall be liable to ejectment for holding over, for allowing more than three months' rent to remain unpaid, or for any of the causes mentioned in this Act. *Ib.* s. 16.

Defendant not to be guardian under *saisie gagerie* unless by consent or on giving security.

17. Whenever a writ of *saisie gagerie* issues either under this Act or under the law, to seize the effects of a tenant, the same shall not be left in the guardianship of the defendant without the consent of the plaintiff, or unless he offers sureties to be approved by the Sheriff or bailiff as the case may be, for the production of the said effects, which sureties shall be liable to the same penalties and obligations therefor as guardians now are in the case of ordinary writs of execution. *Ib.* s. 18.

Holding over for three days to give right of action.

18. The proprietor or lessor may proceed to recover possession of the property leased, if the lessee holds over at any time after the expiration of three days after the lease has expired, or after the term of holding has expired. *Ib.* s. 10.

Costs in suits under this Act.

19. The Court or Judge, in cases under this Act, may award and tax costs according to the tariff of the Superior Court in actions instituted in the Circuit Court wherein the amount of all the matters in contestation exceed two hundred dollars and in all cases the costs shall be taxed according to the amount in contestation; Provided that in no case shall the costs be less than are allowed in an appealable case of the lowest class in the Circuit Court.. *Ib.* s. 20

Suits pending on 30th May, 1860, not affected.

20. Nothing in this Act shall affect any cause or proceeding instituted or commenced before the Thirtieth day of May, one thousand eight hundred and fifty-five; but all proceedings of such nature shall be continued and finally determined and enforced in the same manner as if this Act had not been passed. *Ib.* s. 21.

SEE PAGES 141 to 145 FOR FORMS OF LEASES, LANDLORDS CERTIFICATE OF RENTING, TENANTS, CERTIFICATE OF AGREEMENT; IN RICHMOND'S LEGAL FORMS AND LAW MANUAL.

N. B. All previous Acts Canada East with reference to Landlord and Tenant are repealed, See repealed Act on pages 405 to 408 in this work.

C. E.), 1860.

judgments of
vacation as in

mission of the
lessors and
value of such
day of May
poses of this
ction and all
tion shall be
three months'
oned in this

issues either
effects of a
ardianship of
intiff, or un-
e Sheriff or
effects, which
therefor as
I b. s. 18.

ed to recover
ee holds over
days after
holding has

this Act, may
the Superior
he amount of
rs and in all
contestation;
llowed in an
s. 20

cause or pro-
thirtieth day
fty-five; but
y determined
been passed.

DS CERTIFI-
EMENT; IN

andlord and
408 in this

L

RICHMOND'S LEGAL FORMS AND LAW MANUAL.

TIME TABLE.

TABLE SHEWING THE NUMBER OF DAYS IN ONE MONTH, TO THE SAME
DAY IN ANY OTHER MONTH.

From	Jan.	Feb.	Mar.	Apr.	May	Jun.	July	Aug.	Sept.	Oct.	Nov.	Dec.
January, ..	365	31	59	90	120	151	181	212	243	273	304	334
February, .	334	365	28	59	89	120	150	181	212	242	273	303
March, ...	306	337	365	31	61	92	122	153	184	214	245	275
April,	275	306	334	365	30	61	91	122	153	183	214	244
May,	245	276	304	335	365	31	61	92	123	153	183	214
June,	214	245	273	304	334	365	30	61	92	122	153	183
July,	184	215	243	274	304	335	365	31	62	92	122	155
August, ..	153	184	212	243	273	304	334	365	31	61	92	122
September,	122	153	181	212	242	273	303	334	365	30	61	91
October, ..	92	123	151	182	212	243	273	304	335	365	31	61
November,	61	92	120	151	181	212	242	273	304	334	365	30
December,	31	62	90	121	151	182	212	243	274	304	335	365

H. F. TOBIAS, IN ACCOUNT WITH EDSON, HEWSON,
AND CO.

Mr. H. F. Tobias.

IN ACCOUNT WITH EDSON, HEWSON & Co.

1854.

April 30th. To Goods (at 6 mos.) per account delivered, £128 2 11

Cr. £ s. d.

By Note due 25th June, for 15 0 0

" Interest from 17th June to 4th Nov. 140

days 0 6 11

" Note due 3rd July 25 0 0

" Interest from 3rd July to 2nd Nov., 123

days 0 10 1

" Note due 17th October 43 19 6

" Note due 17th November 43 6 5

£128 2 11

(E. E.)

Edson, Hewson & Co.

Quebec, May 1, 1854.

CURRENCY TABLES.

DOLLARS AND CENTS, CONVERTED INTO HALIFAX CURRENCY.

Dollars and Cents.		Halifax Cy.			Dollars and Cents.		Halifax Cy.			Dollars and Cents.		Halifax Cy.		
\$	cts.	£	s.	d.	\$	cts.	£	s.	d.	\$	cts.	£	s.	d.
0	1	0	0	0 $\frac{5}{8}$	0	32 $\frac{1}{2}$	0	1	7 $\frac{1}{2}$	7	00	1	15	0
0	1 $\frac{1}{2}$	0	0	0 $\frac{3}{4}$	0	33 $\frac{1}{2}$	0	1	8	8	00	2	0	0
0	2	0	0	1 $\frac{1}{4}$	0	35	0	1	9	9	00	2	5	0
0	2 $\frac{1}{2}$	0	0	1 $\frac{1}{2}$	0	37 $\frac{1}{2}$	0	1	10 $\frac{1}{2}$	10	00	2	10	0
0	3	0	0	1 $\frac{3}{4}$	0	40	0	2	0	20	00	5	0	0
0	3 $\frac{1}{2}$	0	0	2 $\frac{1}{4}$	0	42 $\frac{1}{2}$	0	2	1 $\frac{1}{2}$	25	00	6	5	0
0	4	0	0	2 $\frac{1}{2}$	0	45	0	2	3	30	00	7	10	0
0	4 $\frac{1}{2}$	0	0	2 $\frac{3}{4}$	0	47 $\frac{1}{2}$	0	2	4 $\frac{1}{2}$	35	00	8	15	0
0	5	0	0	3	0	50	0	2	6	40	00	10	0	0
0	5 $\frac{1}{2}$	0	0	3 $\frac{1}{2}$	0	55	0	2	9	45	00	11	5	0
0	6	0	0	3 $\frac{3}{4}$	0	60	0	3	0	50	00	12	10	0
0	6 $\frac{1}{2}$	0	0	4	0	65	0	3	3	55	00	13	15	0
0	7	0	0	4 $\frac{1}{4}$	0	70	0	3	6	60	00	15	0	0
0	7 $\frac{1}{2}$	0	0	4 $\frac{1}{2}$	0	75	0	3	9	65	00	16	5	0
0	8	0	0	4 $\frac{3}{4}$	0	80	0	4	0	70	00	17	10	0
0	8 $\frac{1}{2}$	0	0	5	0	85	0	4	3	75	00	18	15	0
0	8 $\frac{3}{4}$	0	0	5 $\frac{1}{4}$	0	87 $\frac{1}{2}$	0	4	4 $\frac{1}{2}$	80	00	20	0	0
0	9	0	0	5 $\frac{1}{2}$	0	90	0	4	6	85	00	21	5	0
0	9 $\frac{1}{2}$	0	0	5 $\frac{3}{4}$	0	95	0	4	9	90	00	22	10	0
0	10	0	0	6	1	00	0	5	0	95	00	23	15	0
0	10 $\frac{1}{2}$	0	0	6 $\frac{1}{2}$	1	12 $\frac{1}{2}$	0	5	7 $\frac{1}{2}$	100	00	25	0	0
0	11	0	0	6 $\frac{3}{4}$	1	25	0	6	8	125	00	31	5	0
0	11 $\frac{1}{2}$	0	0	6 $\frac{3}{4}$	1	37 $\frac{1}{2}$	0	6	10 $\frac{1}{2}$	200	00	50	0	0
0	12	0	0	7 $\frac{1}{4}$	1	50	0	7	6	250	00	62	10	0
0	12 $\frac{1}{2}$	0	0	7 $\frac{1}{2}$	1	62 $\frac{1}{2}$	0	8	1 $\frac{1}{2}$	300	00	75	0	0
0	13	0	0	7 $\frac{3}{4}$	1	75	0	8	9	350	00	87	10	0
0	13 $\frac{1}{2}$	0	0	8 $\frac{1}{4}$	1	87 $\frac{1}{2}$	0	9	4 $\frac{1}{2}$	400	00	100	0	0
0	14	0	0	8 $\frac{1}{2}$	2	00	0	10	0	450	00	112	10	0
0	14 $\frac{1}{2}$	0	0	8 $\frac{3}{4}$	2	12 $\frac{1}{2}$	0	10	7 $\frac{1}{2}$	500	00	125	0	0
0	15	0	0	9	2	25	0	11	3	550	00	137	10	0
0	15 $\frac{1}{2}$	0	0	9 $\frac{1}{2}$	2	37 $\frac{1}{2}$	0	11	10 $\frac{1}{2}$	600	00	150	0	0
0	16	0	0	9 $\frac{3}{4}$	2	50	0	12	6	700	00	175	0	0
0	16 $\frac{1}{2}$	0	0	10	2	75	0	13	9	800	00	200	0	0
0	17	0	0	10 $\frac{1}{4}$	3	00	0	15	0	900	00	225	0	0
0	18	0	0	10 $\frac{1}{2}$	3	25	0	16	3	1000	00	250	0	0
0	19	0	0	11 $\frac{1}{4}$	3	62 $\frac{1}{2}$	0	18	1 $\frac{1}{2}$	1200	00	300	0	0
0	20	0	1	0	3	87 $\frac{1}{2}$	0	19	4 $\frac{1}{2}$	1600	00	400	0	0
0	22 $\frac{1}{2}$	0	1	1 $\frac{1}{2}$	4	00	1	0	0	2000	00	500	0	0
0	25	0	1	3	5	00	1	5	0	3000	00	750	0	0
0	27 $\frac{1}{2}$	0	1	4 $\frac{1}{2}$	6	00	1	10	0	4000	00	1000	0	0
0	80	0	1	6										

CURRENCY INTO STERLING, ETC.

CURRENCY CONVERTED INTO STERLING, AND STERLING MONEY INTO DOLLARS AND CENTS.

CURRENCY.

Halifax
Cy.

£	s.	d.
1	15	0
2	0	0
2	5	0
2	10	0
5	0	0
6	5	0
7	10	0
8	15	0
10	0	0
11	5	0
12	10	0
13	15	0
15	0	0
16	5	0
17	10	0
18	15	0
20	0	0
21	5	0
22	10	0
23	15	0
25	0	0
31	5	0
50	0	0
62	10	0
75	0	0
87	10	0
100	0	0
112	10	0
25	0	0
37	10	0
50	0	0
75	0	0
100	0	0
25	0	0
50	0	0
100	0	0
25	0	0
50	0	0
100	0	0
25	0	0
50	0	0
100	0	0

Currency.	Sterling.	Dollars and Cents.	Currency.	Sterling.	Dollars and Cents.
£ s. d.	£ s. d.	\$ cts.	£ s. d.	£ s. d.	\$ cts.
0 0 1	0 0 0½	0 1½	4 0 0	3 5 9	16 00
0 0 1½	0 0 0 1½	0 2½	5 0 0	4 2 2½	20 00
0 0 2	0 0 0 1½	0 3½	6 0 0	4 18 7½	24 00
0 0 2½	0 0 0 2	0 4½	7 0 0	5 15 0½	28 00
0 0 3	0 0 0 2½	0 5	8 0 0	6 11 6	32 00
0 0 3½	0 0 0 3	0 5½	9 0 0	7 7 11½	36 00
0 0 4	0 0 0 3½	0 6½	10 0 0	8 4 4½	40 00
0 0 4½	0 0 0 3½	0 7½	11 0 0	9 0 9½	44 00
0 0 5	0 0 0 4	0 8½	12 0 0	9 17 3	48 00
0 0 6	0 0 0 5	0 10	13 0 0	10 18 8½	52 00
0 0 7	0 0 0 5½	0 11½	14 0 0	11 10 1½	56 00
0 0 8	0 0 0 6½	0 13½	15 0 0	12 6 6½	60 00
0 0 9	0 0 0 7½	0 15	16 0 0	13 3 0	64 00
0 0 10	0 0 0 8½	0 16½	17 0 0	13 19 5½	68 00
0 0 11	0 0 0 9	0 18½	18 0 0	14 15 10½	72 00
0 1 0	0 0 0 9½	0 20	19 0 0	15 12 3½	76 00
0 2 0	0 1 7½	0 40	20 0 0	16 8 9½	80 00
0 3 0	0 2 5½	0 60	25 0 0	20 10 11½	100 00
0 4 0	0 3 3½	0 80	30 0 0	24 13 1½	120 00
0 5 0	0 4 1½	1 00	35 0 0	28 15 4	140 00
0 6 0	0 4 11½	1 20	40 0 0	32 17 6½	160 00
0 7 0	0 5 9	1 40	45 0 0	36 19 8½	180 00
0 8 0	0 6 7	1 60	50 0 0	41 1 11	200 00
0 9 0	0 7 4½	1 80	60 0 0	49 6 8½	240 00
0 10 0	0 8 2½	2 00	70 0 0	57 10 8½	280 00
0 11 0	0 9 0½	2 20	80 0 0	65 15 1	320 00
0 12 0	0 9 10½	2 40	90 0 0	73 19 5½	360 00
0 13 0	0 10 8½	2 60	100 0 0	82 3 10	400 00
0 14 0	0 11 6	2 80	200 0 0	164 7 8	800 00
0 15 0	0 12 4	3 00	300 0 0	246 11 6	1200 00
0 16 0	0 13 1½	3 20	400 0 0	328 15 4	1600 00
0 17 0	0 13 11½	3 40	500 0 0	410 19 2½	2000 00
0 18 0	0 14 9½	3 60	600 0 0	493 3 0½	2400 00
0 19 0	0 15 7½	3 80	700 0 0	575 6 10½	2800 00
1 0 0	0 16 5½	4 00	800 0 0	657 10 8½	3200 00
2 0 0	1 12 10½	8 00	900 0 0	739 14 6½	3600 00
3 0 0	2 9 3½	12 00	1000 0 0	821 18 4½	4000 00

To convert Currency into Sterling.

To convert Currency into Sterling, at the rate of 24s. 4d. Currency to the pound Sterling—multiply by 60 and divide by 78.

STERLING CONVERTED INTO CURRENCY, AND CURRENCY INTO DOLLARS AND CENTS.

Sterling.			Currency.			Dollars and Cents.			Sterling.			Currency.			Dollars and Cents.		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
0	0	1	0	0	1½	0	0	2	4	0	0	4	17	4	19	46	
0	0	1½	0	0	0	0	0	2½	5	0	0	6	1	8	24	38½	
0	0	2	0	0	0	0	0	4½	6	0	0	7	6	0	29	20	
0	0	2½	0	0	0	0	0	5½	7	0	0	8	10	4	34	07	
0	0	3	0	0	0	0	0	6½	8	0	0	9	14	8	38	93½	
0	0	3½	0	0	0	0	0	7	9	0	0	10	19	0	43	80	
0	0	4	0	0	0	0	0	8½	10	0	0	12	3	4	48	67	
0	0	4½	0	0	0	0	0	9	11	0	0	13	7	8	53	58½	
0	0	5	0	0	0	0	0	10	12	0	0	14	12	0	58	40	
0	0	6	0	0	0	0	0	12	13	0	0	15	16	4	63	27	
0	0	7	0	0	0	0	0	14	14	0	0	17	0	8	68	14	
0	0	8	0	0	0	0	0	16	15	0	0	18	5	0	73	00	
0	0	9	0	0	0	0	0	18½	16	0	0	19	9	4	77	87	
0	0	10	0	1	0	0	0	20	17	0	0	20	13	8	82	74	
0	0	11	0	1	1½	0	0	22	18	0	0	21	18	0	87	61	
0	1	0	0	1	2½	0	0	24	19	0	0	23	2	4	92	47	
0	2	0	0	2	5½	0	0	49	20	0	0	24	6	8	97	38½	
0	3	0	0	3	7½	0	0	73	25	0	0	30	8	4	121	67	
0	4	0	0	4	10½	0	0	97	30	0	0	36	10	0	146	00	
0	5	0	0	6	1	1	22	35	35	0	0	42	11	8	170	33½	
0	6	0	0	7	3½	1	46	40	40	0	0	48	13	4	194	67	
0	7	0	0	8	6½	1	70	45	0	0	0	54	15	0	219	00	
0	8	0	0	9	8¾	1	94½	50	0	0	0	60	16	8	243	38½	
0	9	0	0	10	11½	2	19	60	0	0	0	73	0	0	292	00	
0	10	0	0	12	2	2	43	70	0	0	0	85	3	4	340	67	
0	11	0	0	13	4½	2	67	80	0	0	0	97	6	8	389	38½	
0	12	0	0	14	7½	2	92	90	0	0	0	109	10	0	438	00	
0	13	0	0	15	9¾	3	16	100	0	0	0	121	13	4	486	67	
0	14	0	0	17	0½	3	40½	200	0	0	0	243	6	8	973	38½	
0	15	0	0	18	3	3	65	300	0	0	0	365	0	0	1460	00	
0	16	0	0	19	5½	3	89	400	0	0	0	486	13	4	1946	67	
0	17	0	1	0	8½	4	13	500	0	0	0	608	6	8	2433	38½	
0	18	0	1	1	10½	4	37½	600	0	0	0	730	0	0	2920	00	
0	19	0	1	3	1½	4	62½	700	0	0	0	851	13	4	3406	66½	
1	0	0	1	4	4	4	87	800	0	0	0	973	6	8	3893	38½	
2	0	0	2	8	8	9	74	900	0	0	0	1095	0	0	4380	00	
3	0	0	3	13	0	14	60	1000	0	0	0	1216	13	4	4466	66½	

To convert Sterling into Currency.

Multiply by 7 $\frac{1}{2}$, and divide by 60, or add one-fifth and one-twelfth of that 6th.



ENCY INTO

WORTH BEING REMEMBERED.

THE UNITY OF COMMON LAW AND COMMON SENSE.—Mr. Cox, an English barrister, having written an article, addressed to Lord Chief Justice Denman, complaining of the injury likely to result to the legal profession in England, from the enlargement of the jurisdiction of the County Courts, and the simplification of the practice, Lord Denman has communicated a reply to the Law Review, in which he says :—

“If it be true that three-fourths of all the causes tried in County Courts are, on both sides, conducted by the parties, without assistance either from counsel or solicitor, here is matter for serious reflection. The disputes which grow out of ordinary transactions seldom involve legal doubts, or require the exertion of professional skill, and the diffusion of improved education has taught men in general a freer use of their own powers of narration and argument. What is called a legal understanding is rarely required, except for a discussion of the rules, unavoidably arbitrary, which regulate the descent and transmission of real property, and of those more recondite secrets in the art of mystery of special pleading, which the good sense of the late House of Commons virtually extinguished by putting an end to special demurrers.

“Lord Mansfield advised the student of English law, with the intention of practising at the bar, to begin with “Tully’s Offices,” the title then given to Cicero’s three books, “De offices.” A clear understanding of the duties of men in society was considered by him as the true basis of legal science. I may cite one of the ablest lawyers of this century, who to strong natural sense united to largest experience, for a similar opinion—my honored master, the late Mr. Tidd. I well remember the advice he gave to a pupil who was about to commence practice ; When you are called upon for your opinion make yourself perfectly master of the facts, and then consider what is right. You may be pretty sure that is the law, without looking much into cases.

“When once the facts are well ascertained, few persons differ in opinion as to the result of a civil action.”

(Copied from the *Quebec Mercury*.)

Dollars and Cents.	
\$	cts.
19	46
24	33½
29	20
34	07
38	93½
43	80
48	67
53	58½
58	40
63	27
68	14
73	00
77	87
82	74
87	61
92	47
97	33½
121	67
146	00
170	33½
194	67
219	00
243	33½
292	00
340	67
389	33½
438	00
486	67
573	33½
1460	00
1946	67
2433	33½
2920	00
3406	66½
3893	33½
4380	00
4866	66½

welfth of that

LEGAL FORMS AND LAW MANUAL.

BILL OF PURCHASE.

TORONTO, June 15th, 1854.

Mr. Henry Gilbert.

BOUGHT OF WM. HARRISON & Co.,
No. King Street, West.

1854.	Description of Goods.	£	s.	d.
No. 2	10 pcs. 350 yds. Bleached Shirting Cotton, at 6d	8	15	0
" 19	2 " 60 " Jean Stripe, at.....6½d.	1	13	9
" 4	1 " 35 " 4-4 Linen Sheeting at 2s. 1d.	3	12	11
" 29	½ " 9-4 Cashmere Shawls, at£15.	7	10	0
	½ " Linen C. P. Handkerchiefs, at....40s.	1	0	0
	2 cwt. Muscovado Sugar, at45s.	4	10	0
	128 lbs. Coffee, at.....11d.	5	17	4
	5 brls. Superfine Flour, at.....21s. 3d.	5	6	3
	Received Payment,	£	38	5 3

WM. HARRISON & Co.

Per. W. H. Richmond.

BILL OF BOOK ACCOUNT.

MONTREAL, June 16th, 1854.

Messrs. Ansel Shaw & Co.

To LEWIS HAMMOND, Dr.

1854.	Description of Goods.	£	s.	d.
Mar. 6	To 31 pcs. Fashionable Chintz Prints, at 18s. 6d.	28	13	6
" 14	" 1 " 15 yds. fine Black Cassimere at 8s. 9d.	6	11	3
Apr. 10	" 2 Black Satin Stocks, at ...3s. 9d, 6s. 3d.	0	10	0
" 18	" 1 Pair Calf Boots for Mr. A. Shaw.....	1	5	0
" 24	" ½ doz. Boys' Cloth Caps, at.....25s.	0	12	6
May 2	" 3 " Ladies' White Cotton Hose, at 12s.	1	16	0
" 10	" 1 Silk Hat, No. 17, at.....20s.	1	0	0
June 14	" 1 Black Satin Vest for Mr. Wm. Pearson	1	7	6
	Received Payment,	£	41	15 9

LEWIS HAMMOND.

ACCOUNT

th, 1854.
son & Co.,
et, West.

£	s.	d.
8	15	0
1	13	9
3	12	11
7	10	0
1	0	0
4	10	0
5	17	4
5	6	3
38	5	3

c Co.
Richmond.

1854.
MOND, Dr.

£	s.	d.
28	13	6
6	11	3
0	10	0
1	5	0
0	12	6
1	16	0
1	0	0
1	7	6
41	15	9

ACCOUNT OF SALES.

ACCOUNT OF SALES MADE BY WM. GLASSFORD, FOR ACCOUNT OF
J. B. HINDE.

1854.	Terms.	Description of Articles.	£	s.	d.
March 2.	3 months	8 chests Y. H. Tea, 638 lbs. at 2s. 6d.....	79	15	0
"	"	1 hhd. Sugar, 1125 lbs. at 6d.	28	2	6
April 8.	4 months	1 hhd. Molasses, 110 galls., at 2s. 6d.....	13	15	0
"	"	3 kegs Tobacco, 260 lbs., at 9d.....	13	10	0
May 22.	5 months	20 brls. Pork, at 60s.....	60	0	0
"	"	4 kegs Raisins, 400 lbs nett, at 7d.....	11	13	4
June 10.	Cash ..	3 bales Cotton Yarn, 1000 lbs. nett, at 1s. 4d....	66	13	4
"	"	8 tierces Rice, 2300 lbs nett, at 2½d.....	23	19	2
			90	12	6
1854.		<i>Charges</i>	297	8	4
July 1.		Cartage, Postage, Cooper- age, &c.....	0	17	6
		Commission on amount of Sales, (5 per cent.) ..	14	17	5
			15	14	11
		Nett Proceeds.....	£ 281	13	5

Due by average, July 17, 1854.
(Errors excepted.)

Montreal, July 1, 1854.

WILLIAM GLASSFORD.

NOTE—See the annexed Account Current, embracing the above Account of Sales.

ACCOUNT

A BALANCE OR PROOF SHEET.

A BALANCE OR PROOF SHEET, when the object is to ascertain whether you have gained or lost in conducting business.

Titles of the Accounts.	£ s. d.			£ s. d.		
	£	s.	d.	£	s.	d.
Stock Account, (Capital commenced with)				2000	0	0
James Stevens	129	2	9			
Henry Charles				31	3	3
William T. Romain	12	8	9			
Lewis H. & David Styles				11	11	7
Norman Donald				105	5	9
Oliver Seymour	73	5	9			
Bills Receivable	18	17	7			
Bills Payable				125	0	0
Merchandise (per inventory)	913	1	9			
Cash on hand	1363	7	6			
Profit and Loss (nett gain.)				237	3	6
	£ 2510	4	1	2510	4	1

NOTE.—This statement shows the balance only of accounts due from others to me, and from me to others, together with the present value of the various kinds of property of which I am in possession as owner. Whenever you wish to know the amount of nett profit realized in business during a given interval of time, it is necessary that you should make a statement of all the debts due to you, together with all the property of which you are in possession as owner, as they are exhibited in the above left hand columns. Then place all the balances which are due from you to others in the right hand columns, including the amount of capital commenced with (as above.) The difference between the aggregate of these columns, when footed, is the result of the investigation. If the left hand columns contain more than the right hand, the difference is your nett amount of profit. But if the right hand columns contain more than the left, the difference is your misfortune, and shows that your business has been so much worse than nothing; in other words, that you have lost rather than gained. The difference between your present nett capital, and what it was at any previous period, is the loss or gain during the interval. In the above example it appears that the total amount of debts due me, together with the amount of cash and merchandise on hand, is £2510 4s. 1d.; the amount of debts due from me to others, together with the £2000 capital stock commenced with, (and which is placed in the right hand columns,) is £2273 0s. 7d. The difference between £2510 4s. 1d. and £2273 0s. 7d. is £237 3s. 6d., which is my nett gain subsequent to the date of my last balance sheet.

SHIPPER'S BILL OF LADING.

SHIPPED, IN GOOD ORDER AND WELL CONDITIONED, by HENRY & JONES, of MONTREAL, and consigned to Mr. Charles Boyer, in and upon the Ship, or Steam-boat, St Clare, whereof Mr. James Traver is Master for Halifax, } this present voyage, and now lying in the Port of MONTREAL, and bound for HALIFAX, } viz:—

∞ No. 1. H. & J. 75 brls. Superfine Flour.
 " 3. H. & J. 20 " Mess Pork.
 " 5. H. & J. 17 " Prime Beef.
 " 16. H. & J. 4 " Cheese.
 " 17. H. & J. 2 cases Dry Goods.

[H]

Being marked and numbered as in the margin, and are to be delivered in the like good order and well conditioned, at the aforesaid Port of HALIFAX, Nova Scotia, (All and every the dangers and accidents of the Seas, Rivers and Navigation, of whatsoever nature and kind, excepted,) unto Charles Boyer, care of
 of (charges Flour per brl., Pork per do., Beef per do., Cheese per do., Dry Goods per cwt.,) or at the rate per ton weight of , with average accustomed.

IN WITNESS WHEREOF, the Master or Purser of the said Ship (or Steam-boat, as the case may be;) hath affirmed to three Bills of Lading all of this tenor and date; one of which being accomplished, the rest to stand void.

Dated at Montreal, this tenth day of June, 1854.

NOTE.—When the price of freight is stipulated between the parties, it should be named, but if you have not any previous understanding as to the rate to be charged, you can say at the customary rate.

Of the three Bills of Lading, the Shipper retains one; one he sends to his Consignee, and the third is retained by the Master himself. In some important cases, duplicate bills are sent to the Consignee by different opportunities of conveyance, so that in case one should be lost, as by the dangers of the Sea, the other may reach its destined port.

JAMES TRAVER, Master.

INVOICE

INVOICES—OUTWARD AND INWARD.

INVOICE OUTWARD.

Invoice of Sundries Shipped by HENRY & JONES, on board the Ship or Steam-boat St. Clare, whereof Mr. James Traver is Master for this present voyage, for HALIFAX, consigned to Mr. Charles Boyer, for sale on our own account, and at our risk.

No.			£	s.	d.
1	75	brls. Superfine Flour,.....	at 25s.	93	15 0
3	20	" Mess Pork,.....	at 45s.	45	0 0
5	17	" Prime Beef,.....	at 40s.	34	0 0
16	4	" New Milk Cheese,			
		350 lbs., 345, 342, 339, total			
		gross weight of 4 brls.	1376		
		Tare of 19 lbs. each.....	76		
		Nett weight..	1300	at 5½d.	29 15 10
17	2 cases, 20 pieces	Grey Cloth, 620 yds.	at 2s. 3d.	69	15 8
CHARGES.					
		Cartage and Cooperage.....	£0	17	6
		Insurance on £272 6s. 6d. at ½ per cent.	1	7	3
				2	4 9
			£	274	11 3
Montreal, June 10, 1854.			H. & J.		

INVOICE INWARD.

Invoice of Sundries Shipped on board the Steam-boat Passport, by LEWIS STEWART, of TORONTO, whereof Capt. William Bowen is Master for this present voyage, consigned to Messrs. Henry & Jones of Montreal, for sale on their and my joint account and risk.

			£	s.	d.
2 cases, 105 pieces	Fashionable Chintz				
	Prints	at 18s. 9d.	98	8	9
1 " 10	" Superfine Black Cloth				
	135 yards,.....	at 17s. 6d.	118	2	6
2 " 48	" Satinets, 755½ yds.	at 3s. 9d.	141	13	2
1 bale 8	" Drab Moleskin, 350				
	yards.....	at 1s. 3d.	21	17	6
2 " 78	" Brown Cotton Shirt-				
	ings, 2302 yds.,...at 0s. 4½d.		43	3	3
CHARGES.					
	Cartage from Store to Wharf,	£0	1	6	
	Insurance on £423 5s. 2d. at ½ per cent.	1	1	2	
				1	2 8
			£	424	7 10
Toronto, 15th June, 1854.			L. S.		

rate to be charged, you can say at the customary rate.
Of the three Bills of Lading, the Shipper retains one; one he sends to his Consignee, and the third is retained by the Master himself. In some impor-
tant cases, duplicate bills are sent to the Consignee by different opportunities of conveyance, so that in case one should be lost, as by the dangers of
the Sea, the other may reach its destined port.

FORWARDER'S BILL OF LADING.

NAPOLEON WHARF.
QUEBEC, June 17, 1854

Copy of a Bill of Lading.

Shipped, this day, by Allen, Holmes & Co., on board the Steamboat John Nunn, whereof Mr. Jos. Armstrong is Master, in good order and well-conditioned, the following property, marked and numbered as per margin; Charges and Freight hence payable by Messrs. Barns & Johnson, or their Agent, at Montreal.

10

If any damage, error, or overcharge, notify thereof immediately.

FREIGHT AND CHARGES PAYABLE ON DELIVERY.

Marks and Numbers.	No. Pieces.	Description of Property.	Weight.			Rate.		Amount.		
			CWL.	$\frac{1}{4}$	$\frac{1}{2}$	S.	D.	£	s.	D.
B. & J. M.	3	Cases of Dry Goods, }	21	1	0	2	6	2	13	9
B. & J. M.	0	Bales Bed-ticking, }								
B. & J. M.	1	Bale Cotton Shirting,	8	0	0	1	3	0	10	0
A. B. M.	1	Tierce of Hardware,.....				7	6	0	15	0
L. W. M.	5	Dozen Fancy Chairs, per dozen,								
		For Storage in Montreal,				£		3	18	9
		Received Payment for				£		0	4	0
								£	4	2
										9

Messrs. ALLEN, HOLMES & Co., of Quebec.
Per Lewis Holcomb.

Montreal, June 21, 1854.

APPRENTICESHIP

Montreal, June 21, 1854.

APPRENTICESHIP INDENTURE.

APPRENTICESHIP INDENTURE.

THIS INDENTURE, made the twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four, between Charles Snaith, of the Town of _____, in the County of _____ and District of _____, of the Province of Canada, yeoman, of the first part; and Samuel Niles of the Town of _____, in the County of _____, and District of _____, of the said Province, printer, of the second part, WITNESSETH: That the said party of the first part doth, by these presents, with the consent of his son James Snaith, a minor, above the age of fifteen years, signified by his signing this Indenture, DOth hereby place, bind and indent him to the said party of the second part, to learn the art and trade of a printer, and with him, the said party of the second part, after the manner of an apprentice, to dwell and serve from the day of the ensealment hereof, until the _____, when the said minor will arrive at the age of twenty one years.

AND during said term, the said apprentice shall well and faithfully serve the said party of the second part, and shall give and devote to him his whole time and labor; that he shall not marry during said term, nor use ardent spirits, nor practice gaming, nor any other unlawful sports; nor waste, injure, or destroy the property of his master; but conduct himself in a sober, temperate honest manner, and as a good and faithful apprentice ought to do, during all the time aforesaid: AND the said party of the second part, for himself, his heirs, executors, and administrators, doth hereby covenant with the said party of the first part, that he will faithfully instruct said apprentice, in the art or trade aforesaid, as far as said apprentice may be capable to learn, and constantly provide him with good, suitable and sufficient food, lodging and clothing, and all other things necessary in sickness and health, and will train him up in the habits of industry, temperance and virtue; and pay to the said party of the first part, for the use and benefit of the said apprentice, the sum of money following namely; (*here state the amount and manner of payment.*) AND the said James Snaith hereby signifies his assent to the terms of this Indenture, and promises faithfully to keep and perform all things to be kept or performed by him.

IN WITNESS WHEREOF, the said parties to these presents, have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of
H. PIPER,
EBEN TOWN.

CHARLES SNAITH, [Seal.]
SAMUEL NILES, [Seal.]
JAMES SNAITH. [Seal.]



AGREEMENT TO DEED PROPERTY.

ARTICLES OF AGREEMENT, made the fourth day of May, in the year of our Lord one thousand eight hundred and fifty-four, between John Hammond, of the City of Hamilton, in the County of Wentworth, of the Province of Canada, gentleman, of the first part; and David Walters, of the Township of _____, in the County of _____, and Province aforesaid, farmer, of the second part, WHEREAS: The said party of the first part, hath agreed to sell to the party of the second part, and the said party of the second part, hath agreed to purchase of and from the said party of the first part, all and singular that certain tract or parcel of land, being composed of the South West half of Lot Number Four, in the Eight Concession of the said Township of _____, in the County of _____, containing by admeasurement one hundred acres, be the same more or less: TOGETHER with all the privileges and appurtenances thereunto belonging, at and for the price or sum of two hundred pounds, lawful money of Canada, payable in manner and on the days and times hereinafter mentioned, that is to say: THE sum of Ten pounds in hand, at the date of these presents, and the balance in four equal annual instalments, with interest on the whole sum remaining due at the time of each payment, the first of said instalments to become due and owing on the tenth day of June next, which will be in the year of our Lord one thousand eight hundred and fifty-four, and Each of the remaining instalments to become due and payable on the tenth day of June in each and every succeeding year.

NOW IT IS HEREBY AGREED: Between the parties aforesaid, in manner following, that is to say; the said party of the second part, for himself, his heirs, executors, administrators and assigns, Doth Covenant, promise and agree, to and with the said party of the first part, his heirs, executors, administrators and assigns, that he or they shall and will well and truly pay, or cause to be paid, to the said party of the first part, his heirs, executors, administrators, or assigns the said sum of money, together with the interest thereon, on the days and times and in manner above mentioned; and also shall and will pay and discharge all taxes, rates and assessments wherewith the same land may be rated or charged. IN CONSIDERATION WHEREOF, and on payment of the said sum of money, with interest as aforesaid, in manner as aforesaid, the said party of the first part doth, for himself, his heirs, executors, administrators and assigns, covenant, promise and agree, to and with the said party of the second part, his heirs, executors, administrators or assigns, to convey and assure, or cause to be conveyed and assured, to the said party of the second part, his heirs or assigns, by a good and sufficient deed, in fee-simple, with the usual covenants of warranty, the said piece or parcel of land, with the appurtenances, freed and discharged from all incumbrances,

AGREEMENT FOR THE SALE OF AN ESTATE.

branches, but subject to the conditions and reservations expressed in the original grant thereof from the Crown; and shall and will suffer and permit the said party of the second part, his heirs and assigns, to occupy and enjoy the same, until default be made in payment of the said sum of money, or any part thereof, on the days and times and in manner hereinbefore mentioned, subject, nevertheless, to impeachment for voluntary or permissive waste.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of
CHARLES LEWIS,
PETER HALL.

} JOHN HAMMOND, [Seal.]
DAVID WALTERS. [Seal.]

The above to be in duplicate, one for each party.

AGREEMENT FOR THE SALE OF AN ESTATE.

THIS AGREEMENT, made, concluded, and agreed upon, the seventh day of June, in the year of our Lord one thousand eight hundred and fifty-four, between Lewis Richards, of the Town of _____, in the County of _____, and District of _____, of the Province of Canada, merchant, of the first part; and Thomas Hall Jones, of the City of _____, in the County of _____, and District of _____, of the said Province, builder, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of five shillings, to him in hand paid, the receipt whereof is hereby acknowledged and confessed, and for the consideration hereinafter mentioned, doth covenant, promise, grant, and agree, to and with the said party of the second part, his heirs and assigns, by these presents, that he, the said party of the first part, shall and will, on or before the first day of July next, ensuing the date hereof, at the proper cost and charges of the said party of the first part, by such deed or deeds of conveyance, as he or his counsel, learned in the law, shall advise, well and sufficiently grant, convey, and assure, unto the said party of the second part, in fee simple, clear of all incumbrances; All that certain parcel or tract of land and premises now occupied by _____; Together with all the appurtenances thereunto belonging, situate, lying and being, in the Town of _____, in the County of _____, District of _____, and Province of Canada, (*here describe the premises to be conveyed*;) _____

IN CONSIDERATION WHEREOF; the said party of the second part, doth covenant, promise and agree, to and with the said party of the first part, by these presents, that he, the said party of the second part, shall and will well and truly pay, or cause to be paid, unto the said party of the first part, the sum of five hundred pounds,

pounds, in manner following, to Wit: one hundred and twenty-five pounds part thereof, on the delivery of the deed for the premises, and the residue three hundred and seventy-five pounds, on the first day of September, in the year of our Lord one thousand eight hundred and fifty-four; To be Secured by a Mortgage on the said premises: And for the true performance of all and every the covenants and agreements aforesaid, each of the said parties bindeth himself, his heirs, executors, administrators and assigns, unto the other, his heirs, executors, administrators, and assigns, firmly by these presents.

IN WITNESS WHEREOF the said parties to these presents have hereunto interchangeably set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,	}	L. RICHARDS,	[Seal.]
in presence of		THOS. H. JONES.	[Seal.]
JAMES BOOKER,			
T. W. HOOKER.			

The above to be in duplicate, one for each party.

AGREEMENT TO CONVEY LAND.—(Short Form.)

IT IS AGREED, By and between John Davids, of the Town of _____, in the County of _____, of the Province of Canada, gentleman, and Henry Owen, of the same place, shoemaker, As follows:—I, The said John Davids, Do hereby agree to convey to the said Henry Owen, in fee simple, a certain tract of land, (*here describe the premises*), by a warranty deed in common form, for _____ pounds, lawful money of Canada, on or before the _____ next. And the said Henry Owen, agrees to pay to the said John Davids, the sum of _____ pounds, lawful money as aforesaid, for the same, on delivery of the deed; and the said Henry Owen, may enter upon and occupy the premises, on _____ day of _____, A. D. 185 _____.

Witness our hands and seals, this		day of _____,	
A. D. 185 _____			
Signed, Sealed and Delivered,	}	JOHN DAVIDS,	[Seal.]
in presence of		HENRY OWEN.	[Seal.]
JOSEPH RICH,			
CHARLES EDWARDS.			

AGREEMENT ON SALE OF WHEAT.

IT IS HEREBY AGREED: By William Samuels, of _____ in the County of _____, of the Province of Canada, farmer, of the first part; and Lewis Richards, of the Town of _____, in the County of _____, of the said Province, merchant, of the second part, The agreement is as follows, to wit: The said party

CONTRACT TO BUILD A HOUSE.

party of the first part agrees to sell and deliver to the said party of the second part at his Store in _____, on or before the fourteenth day of September next, two hundred bushels of wheat to weigh sixty pounds to the bushel, warranted to be good and merchantable. And the said party of the second part agrees to pay the said party of the first part, five shillings per bushel weighing sixty pounds as aforesaid, making the sum of fifty pounds, lawful money of Canada, payable on the delivery of the said two hundred bushels of wheat.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this twenty-first day of April, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,
in presence of
WILLIAM HOW,
H. M. JOHNSTON.

WILLIAM SAMUELS, [Seal.]
LEWIS RICHARDS. [Seal.]

CONTRACT TO BUILD A HOUSE.

THIS CONTRACT, made this first day of May, in the year of our Lord one thousand eight hundred and fifty-four, by and between Lewis Richards, of the Town of _____, in the County of _____, of the Province of Canada, merchant, of the first part; and Thomas Hall Jones, of the City of _____, in the County of _____, of the said Province, builder, of the second part, WITNESSETH: That the said party of the second part, hath for and in consideration of five shillings, to him in hand paid, the receipt whereof is hereby acknowledged and confessed, and for the considerations hereinafter mentioned, doth covenant, promise, and agree, to and with the said party of the first part, that he the said party of the second part, will, within the space of six months from the date hereof, in good and workman like manner, and according to the best of his art and skill, well and substantially erect, build, set up, and finish, one house or messuage, at _____, of the dimensions following, viz: _____, said house is to be built with such timber, brick, or stone, and other materials, as the said party of the first part shall furnish, forthwith.

IN CONSIDERATION WHEREOF, the said party of the first part, doth covenant and promise to and with the said party of the second part, to pay or cause to be paid, unto the said party of the second part, the sum of two hundred and fifty pounds, lawful money of Canada, in manner following, to Wit:—Seventy-five pounds, when the work shall be commenced, one hundred pounds, on the first day of August next, (provided the house shall at that time be at least two-thirds finished) and the remaining seventy-five pounds, when the whole work shall be completely done and finished;

finished: And for the fulfilment of all the promises and covenants aforesaid, by each of the parties, they respectively bind their legal representatives as well as themselves.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
WILLIAM HOW,
H. M. JOHNSTON.

} L. RICHARDS. [Seal.]
THOS. H. JONES. [Seal.]

ASSIGNMENT OF A DEBT OR BOND.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Shaw, of the City of _____, in the County of _____, of the Province of Canada, trader, of the first part; in consideration of twenty-five pounds, lawful money of Canada, to me in hand paid by Lewis Richards, of the Town of _____, in the County of _____, of the said Province, merchant, of the second part, the receipt whereof is hereby acknowledged, I the said party of the first part, Do hereby grant, sell and assign, to the said party of the second part, a certain debt due me from Stephen Piper, of the Town of _____, for goods sold, and delivered; (or, if a bond, "a certain bond; dated the _____, made to me, by Charles Henry for fifty pounds, conditioned, for the payment of thirty eight pounds") with full power to collect, and discharge or dispose of the same, in my name, at his pleasure, at his own expense and risk. AND I do hereby Covenant, that said debt is JUSTLY due, and that I have not done and will not do any act by which the collection thereof may be hindered or prevented.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this ninth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,
in presence of
EBEN TOWN,
JOHN S. LOW.

} H. SHAW. [Seal.]

ASSIGNMENT BY ENDORSEMENT OF A JUDGMENT, MORTGAGE, OR LEASE.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Shaw, of the City of _____, in the County of _____, and District of _____, of the Province of Canada, trader, of the first part; the within named, in consideration of _____ pounds _____ shillings, to me in hand paid by Lewis Richards, of the Town of _____, in the County of _____, and District of _____,

ASSIGNMENT OF A MAN'S WHOLE ESTATE TO HIS CREDITORS.

District of _____, of the said Province, merchant, of the second part, the receipt whereof I, the said party of the first part, do hereby acknowledge, have granted and assigned to the said party of the second part, the judgment within mentioned, with full power to recover the same, for his own use at his own risk and expense. (*If a mortgage, say, "I the said party of the first part, do hereby grant and assign to the said party of the second part, the within mortgage, the debt thereby secured, and all my right to the premises thereby conveyed."*) (*If a lease, then say, "I the said party of the first part, do hereby grant and assign to him, the said party of the second part, the lease within written; and do hereby covenant, that I the said party of the first part have not done, and will not do any act, by which said lease may be impaired."*)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this tenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

EBEN TOWN,
JOHN S. LOW.

H. SHAW.

[Seal.]

ASSIGNMENT OF A MAN'S WHOLE ESTATE, TO HIS CREDITORS.

THIS ASSIGNMENT, made this twelfth day of April, in the year of our Lord one thousand eight hundred and fifty-four, by Mr. John Thomas Town, of the City and District of Montreal, of the Province of Canada, merchant, of the first part; and Messrs. Holdham and Company, herein acted for by Seth Thompson, one of the said firm, Abel Heming & Co., represented by James Henry assignee to the Bankrupt Estate of the said Abel Heming & Co., Peter Mulholland & Co., represented by Peter Mulholland, William Hazelton, H. & M. Roberts represented by Henry Roberts, Williams & Dexter acted for by Charles Dele, Elias Holmes Grant, acting for W. & E. H. Grant, Henry Jodein & Co., represented by Charles Smith, one of the said firm, and Styles Holmes, all of the City of Montreal, of the said Province, merchants, of the second part, WHEREAS: The said John Thomas Town, stands indebted to his said Creditors, parties to these presents, in several sums of money; And whereas the said John Thomas Town, is possessed of and entitled unto several goods in trade, wares and merchandizes, and there are divers debts and sums of money due and owing unto the said John Thomas Town, from sundry persons: And whereas the said J. T. Town, having met with great losses and misfortunes in his business, and having offered and proposed to his said Creditors, who are parties to these presents, to assign, convey, and make-over for their use and benefit,

benefit, the said several goods in trade, wares and merchandizes, and the said debts or sums of money, and all other the goods, chattels, debts, Estate and effects, whatsoever; which he the said J. T. Town, is possessed of or entitled unto, in manner hereinafter mentioned and declared. And the said Creditors, parties hereto, considering the present circumstances and situation of the affairs of the said J. T. Town, and to prevent as much as may be the diminishing their estate, in pursuing rigorous means for the recovery of their said debts, have accepted, and do hereby agree to accept of his said offer, And propose, subject nevertheless to the provisos and agreements hereinafter mentioned: Now THESE PRESENTS WITNESS: That the said John Thomas Town, has by and with the consent and at the nomination of the said several Creditors, parties hereto, assigned, transferred and made-over, unto the said Seth Thompson and Henry Roberts, their executors, administrators and assigns, All and Singular the said goods in trade, wares, merchandizes and debts, and all notes, books and papers of account, and other writings, touching and concerning the same, or any part thereof and also all other the goods, chattels, wares and merchandizes, monies, debts, effects and Estate of him the said J. T. Town, whatsoever, or in, or to, which he is in any-way interested or entitled: To HAVE AND TO HOLD, receive and enjoy; all and singular the said goods in trade, wares and merchandizes, debts or sums of money and all other the premises, by these presents mentioned or intended to be assigned and transferred, unto the said Seth Thompson and H. Roberts, their executors, administrators and assigns, as for their own proper goods, monies and Estate, upon trust, and to and for the intents and purposes, hereinafter mentioned and declared concerning the same; that is to say, upon this special trust and confidence, that they the said S. Thompson and Henry Roberts, their executors, administrators and assigns, do and shall as soon as taken possession of, Divide the said goods in trade, wares and merchandizes amongst the said creditors, their heirs or assigns, and do and shall, by such lawful ways and means as they the said S. Thompson and Henry Roberts, their executors or administrators, in their discretion shall think fit, get in and receive the several debts or sums of money, and all other the premises hereby assigned or mentioned, or intended so to be: AND upon this further trust, that the said S. Thompson and H. Roberts, their executors, administrators, or assigns, do and shall divide and pay all the clear monies which shall be raised or recovered of the debts or sums of money, and premises hereby mentioned and intended to be assigned, unto and amongst the said several Creditors of the said J. T. Town, party hereto; who shall have executed these presents, or who shall hereafter ratify and confirm the same, towards satisfaction of their several and respective debts, proportionally and according

to
mis
duc
of,
A
seve
sen
mov
resp
quit
claim
adm
ner
debt
whic
ditor
pecti
any
shall
challe
tors,
and t
and t
DED A
said p
allow
assign
H. Ro
assign
anyth
wise
agreed
shall a
Robert
dischar
sum or
rent an
Town,
and bel
treal, a
all liab
dischar
said J.
the Sta
prevent
the said
nine pou
Provi

ASSIGNMENT OF A MAN'S WHOLE ESTATE TO HIS CREDITORS.

to a pound rate of such debts, so far as the same assigned premises, or the produce thereof; will extend to satisfy, after a deduction of the charges and expenses of or in the selling, disposing of, recovering and getting in of the same or any part thereof.

AND THIS ASSIGNMENT, FURTHER WITNESSETH: That the said several Creditors of the said J. T. Town, parties to these presents, for divers good causes and considerations them thereunto moving, have for themselves severally, and for their several and respective partners and assigns, remised, released, and forever quitted claim, and by these presents do, and each and every quit claim, unto the said John Thomas Town, his heirs, executors, administrators and assigns, and every of them, all and all manner of action and actions, cause and causes of action, suits, debts, sum and sums of money, claims and demands, whatsoever which against him the said J. T. Town, they the said Creditors, parties to these presents, or their several and respective partners, executors, administrators, and assigns, or any of them now have or ever had, or are entitled unto, or shall or may at any time or times hereafter have, claim, challenge or demand against the said J. T. Town, or his executors, or administrators up to this day, the assignment hereby made, and the several trusts, agreements, covenants, provisos, matters and things herein contained, afore-primed and accepted. PROVIDED ALSO, and it is hereby expressly agreed by and between the said parties to these presents, that the said J. T. Town, shall be allowed the sum of five pounds. per cent, out of his estate hereby assigned, which shall be paid him by the said S. Thompson and H. Roberts, their executors, administrators or their assignees, or assigns, in wares, goods and merchandizes, out of the said Estate, anything hereinbefore contained, to the contrary thereof in anywise notwithstanding: Provided also, and it is hereby further agreed by and between the said parties to these presents that it shall and may be lawful to and for the said S. Thompson and H. Roberts, their executors, administrators and assign to pay and discharge out of the said trust Estate hereby assigned, all such sum or sums of money as now is and are and will be due for the rent and taxes of the store at present occupied by the said J. T. Town, in (here name the street) of the said City of Montreal, and belonging to Hiram Tanklin, gentleman, of the City of Montreal, and keep the said J. T. Town harmless and discharged from all liabilities towards the said Hiram Tanklin, and also pay and discharge the sum of seventy-nine pounds, currency, due by the said J. T. Town, to Charles Jackson, of the City of Rochester, in the State of New-York, one of the United States of America, and prevent the said J. T. Town, from being molested or troubled by the said Charles Jackson, on account of the said sum of seventy-nine pounds, currency:

PROVIDED ALSO, and it is hereby mutually covenanted, declared and

and agreed by and between the parties to these presents, that no dividend or distribution shall be made by the said S. Thompson and H. Roberts, of any part of the premises and debts hereby assigned, or the proceeds thereof; to or amongst any of the Creditors, parties to these presents, until such Creditor shall have sworn before a Justice of the Peace, if required by the said S. Thompson and H. Roberts, that claim or debt was due and owing previous to the execution of these presents.

AND for the execution of these presents, the said parties have elected their domicile at their ordinary places of business: Thus done and passed at the said City of Montreal, on the day, month and year, first and before written.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their Seals, the assignment having been first duly read.

(Signed)	John T. Town,	[Seal.]
"	Holdman & Co., per S. Thompson,	[Seal.]
"	Abel Heming & Co., per Jas. Henry, Assignee,	[Seal.]
"	Peter Mulholland & Co., per P. Mulholland,	[Seal.]
"	William Hazelton,	[Seal.]
"	H. & M. Roberts, per H. Roberts,	[Seal.]
"	Williams & Dexter, per power of Attorney, by [Charles Dole,	[Seal.]
"	W. & E. H. Grant per E. H. Grant,	[Seal.]
"	Henry Jodoin & Co., per Charles Smith,	[Seal.]
"	Styles Holmes.	[Seal.]

(The above to be in duplicate one for the assignees and the other for John T. Town.)

ASSIGNMENT OF A MAN'S WHOLE ESTATE.

IN TRUST FOR HIS CREDITORS

KNOW ALL MEN BY THESE PRESENTS: That I, Andrew Poor, of the City of Toronto, in the County of York, of the Province of Canada, merchant, in consideration of five shillings, to me in hand paid by James Adams, of the Township of _____, in the County of _____, of the said Province, yeoman, and of the trusts herein expressed, do grant and assign to the said James Adams, all my goods, wares, merchandizes, property, estate, notes, accounts, dues, debts and demands, of every description; as specified in the Schedule hereunto annexed, marked "SCHEDULE A." TO HAVE AND TO HOLD the same to the said James Adams, and his heirs, in trust, to sell and dispose of the said goods, wares, merchandizes, property and estate, to the best advantage, and to collect and convert into money, the said notes, accounts, dues, debts and demands; and after deducting from the proceeds of the said property the expenses incurred by the said James Adams, in transacting the business, and a reasonable compensation for his services,

ACKNOWLEDGMENT OF A MORTGAGE.

services, to divide and pay the proceeds, Unto and amongst the Several Creditors hereinafter named, of the said Andrew Poor, party hereto, (*here name the Creditors and their places of business*;) To be paid to the said several Creditors, in equal proportions to their respective claims.

James Adams AGREES to execute the said trust, being responsible only for his actual receipts, or willful defaults.—And the said several Creditors of the said Andrew Poor, parties to these presents, whose names are hereunder subscribed and their seals affixed; agree to the above assignment, and that this instrument shall be a release in full of all their claims, whenever their just proportion of all the proceeds of the said property shall be paid.

IN WITNESS WHEREOF, We, the said parties to this assignment, have hereunto set our hands and affixed our seals, this day of _____, in the year of our Lord one thousand eight hundred and fifty-_____.

Signed, Sealed and Delivered, }
in presence of
JAMES ANDERSON,
CHARLES RIDOUT.

ANDREW POOR, [Seal.]
JAMES ADAMS, [Seal.]
LEWIS HOWLAND, [Seal.]
PETER JONES. [Seal.]

ASSIGNMENT TO BE ENDORSED ON AN INSTRUMENT.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Henry, of the _____, in the County of _____, of the Province of Canada, cabinet-maker, In consideration of the sum of _____ pounds, lawful money, to me in hand paid, by Stilman Tobias, of the Town of _____, in the County and Province aforesaid, the receipt whereof is hereby acknowledged, I do hereby transfer assign and set-over, to the said Stilman Tobias, his heirs and assigns, all my right, title and interest, in and to the within instrument; and I do hereby constitute the said Stilman Tobias, my attorney, in my name, or otherwise, but at his own cost and charge, to take all legal measures which may be proper or necessary, for the complete recovery and enjoyment of the assigned premises.

WITNESS my hand and seal, this _____ day of _____, A.D. 185_____, in presence of }
WILLIAM WEST,
JAMES HAMILTON. } CHARLES HENRY. [Seal.]

ACKNOWLEDGMENT OF A MORTGAGE.

Province of Canada, County of _____, To Wit:
BE IT REMEMBERED: That on this _____ day of July, A. D. 1854, before me, the subscriber, one of the Justices of the Peace
21 in

in and for the City or County of _____, came the within named John Hartman, and acknowledged the within indenture of mortgage, to be his act and deed, to the end that the same might be recorded as such according to law.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal, of office, the day and year first above written.

ADAM JONES. [Seal.]
J. P.

SPECIAL SUBMISSION TO ARBITRATORS.

WHEREAS, A Controversy is now existing and pending, between Edward North, of the _____ of _____, in the _____ of the Province of Canada, yeoman, and Henry Rich, of the City of _____, in the County of _____, of the said Province, contractor, in relation to [*here set forth the subject matter in dispute* ;] NOW THEREFORE, WE, The undersigned Edward North and Henry Rich, aforesaid, Do hereby agree to submit the said controversy to the arbitrament of Lewis Daniels, Oliver West and Peter Devins, of the City of _____, in the County and Province aforesaid, or any two of them; and we do mutually covenant and agree, two and with each other; That the award to be made by the said Arbitrators, or any two of them, shall, in all things, by us, and each of us, be well and faithfully kept and observed; Provided, however, that the said award be made in writing, under the hands of the said Lewis Daniels, Oliver West and Peter Devins, or any two of them, and ready to be delivered to the said parties in difference, or such of them as shall desire the same, on the _____ day of _____ next.

WITNESS our hands and seals, this _____ day of _____, A.D. 1854, in presence of
JOSEPH ROBINSON, } EDWARD NORTH, [Seal.]
WILLIAM THOMAS. } HENRY RICH. [Seal.]

GENERAL SUBMISSION TO ARBITRATE.

WHEREAS Differences have for this past two months existed, and are now existing and pending, between Edward North, of the _____, in the County of _____, of the Province of Canada, yeoman, and Henry Rich, of the City of _____, in the County of _____, of the said Province, druggist, in relation to diverse subjects of controversy and dispute: NOW THEREFORE, We, the undersigned Edward North and Henry Rich, aforesaid, Do hereby mutually covenant and agree, to and with each other; That Lewis Daniels, Oliver West and Peter Devins, of the _____, in the County of _____, of the said Province,

ARBITRATION BOND.

Province, or any two of them, shall arbitrate, award, order, judge, and determine, of and concerning all and all manner of actions, cause and causes of actions, suits, controversies, claims and demands whatsoever, now pending, existing, or held, by and between us, the said parties: And we do further mutually covenant and agree, to and with each other, that the award to be made by the said arbitrators, or any two of them, shall, in all things, by us, and each of us, be well and faithfully kept and observed; Provided, however, that the said award be made in writing, under the hands of the said Lewis Daniels, Oliver West and Peter Devins, or any two of them, and ready to be delivered to the said parties in difference, or such of them as shall desire the same, on the day of next.

WITNESS Our hands and seals, Dated at _____, this _____ day of _____, A.D. 185 _____, in presence of
 CHARLES BALL, } EDWARD NORTH, [Seal.]
 OLIVER MORRIS. } HENRY RICH. [Seal.]

N.B.—Submissions when under seal, the one revoking it should also be under seal.

ARBITRATION BOND.

KNOW ALL MEN BY THESE PRESENTS: That I, William Rogers, of the Town of _____, in the County of _____, of the Province of Canada, merchant, Am held and firmly bound unto John Molson, of the Town of _____, in the County of _____, of the said Province, in the sum of fifty pounds, lawful money, To be paid to the said John Molson, or to his certain attorney, executors, administrators, or assigns; for which payment to be well and truly made, I bind myself, my heirs, executors and administrators, firmly by these presents. Sealed with my seal, Dated this _____ day of _____, one thousand eight hundred and fifty-_____.

The Condition of this obligation is such; That if the above bounden William Rogers, shall well and truly submit to the Decision and Award of Abbott Lawrence, Charles Jones and Henry Tobin, of the Town of _____, in the County of _____, of the said Province; parties named, selected and chosen arbitrators, as well by and on the part and behalf of the said William Rogers, as of the said John Molson, to arbitrate, award, order, judge, and determine, of and concerning all and all manner of actions, cause and causes of actions, suits, controversies, claims and demands, whatsoever, now pending, existing, or held, by and between the said William Rogers and the said John Molson; Providing the said award be made in writing, under the hands and seals of the said Abbott Lawrence, Charles Jones and Henry Tobin, or any two of them, and ready to be delivered

delivered to the said parties, or such of them as shall desire the same, on or before the day of , A.D. 185 ; then this obligation to be void; otherwise to remain in full force and virtue; [*here may be inserted in case of no previous submission in writing;*] And lastly the above bounden William Rogers hereby consents and agrees, that judgment in the Court of Queen's Bench held at , [or County Court held at , in and for the County of ,] shall be rendered upon the award to be made, as aforesaid, to the end that all matters in controversy between the said parties, may be finally concluded.

Signed, Sealed and Delivered,
in presence of
OLIVER MORRIS,
JAMES HALL. } WILLIAM ROGERS, [Seal.]
JOHN MOLSON. [Seal.]

The above to be in duplicate; The obligor in one will be the obligee in the other.

AFFIDAVIT OF THE EXECUTION OF THE ARBITRATION BOND.

Province of Canada, } Oliver Morris and James Hall, of the
County of , } Town of , in the said County
To wit: } of , being duly sworn, make
oath and say, that they were present, and saw William Rogers and John Molson sign, seal, and as their act and deed deliver the bond hereunto annexed; that the names William Rogers and John Molson; and that we the deponents set our names as subscribing witnesses to the same, at the time of the execution of the bond and delivery by the said William Rogers and John Molson, as aforesaid: and further we say not.

Sworn to, this day of , }
A.D. 185 , before me, } OLIVER MORRIS,
JOHN SMITH, Justice of the Peace. } JAMES HALL.

NOTICE TO ARBITRATORS OF THEIR APPOINTMENT.

To Abbott Lawrence, Charles Jones and Henry Tobin, Esquires: YOU ARE HEREBY NOTIFIED; That you have been nominated and chosen arbitrators, as well on the part and behalf of the undersigned William Rogers, of the Town of , in the County of , of the Province of Canada, trader, as of John Molson, of the same place, in the said Province, iron-founder, also a party to this notice, To Arbitrate, Award, &c.; [*as in the submission or bond, stating the time within which the award must be made;*] and you are requested to meet the said parties at the house of Otis Fisher, in the Town of , in

OATH TO BE TAKEN FROM A WITNESS BEFORE ARBITRATORS.

in the said County, on the day of , at
twelve o'clock noon of that day, for the purpose of fixing upon
a time and place when and where the proofs and allegations of
the said parties shall be heard. Dated at , this
day of , A.D. 185 .

Yours, very respectfully,

WILLIAM ROGERS,
JOHN MOLSON.

ARBITRATOR'S OATH.

WE, THE UNDERSIGNED; Arbitrators, appointed by and between
William Rogers and John Molson, do swear that we, respectively,
will faithfully and fairly hear and examine the matters in contro-
versy between the parties above named, and will make a just
award therein, according to the best of our judgment.

SWORN TO, this day of , }
A.D. 185 , before me, } ABBOTT LAWRENCE,
JOHN SMITH, Justice of the Peace. } CHARLES JONES,
HENRY TOBIN.
Arbitrators.

SUBPENA TO APPEAR BEFORE ARBITRATORS.

PROVINCE OF CANADA, } To Horace Peters, Abner Boyd
County of , } and John Riley, of the Town of ,
To Wit: } in the said County, Greeting:—

WE COMMAND YOU, and each of you, personally to appear and
attend at the house of Otis Fisher, in the Town of , in
the said County, on the day of instant,
at twelve o'clock noon of that day, before Abbott Lawrence,
Charles Jones and Henry Tobin, ARBITRATORS chosen to deter-
mine a controversy, [or certain matters in controversy,] between
William Rogers and John Molson, then and there to testify in
relation thereto, before the said arbitrators, on the part of the
said William Rogers: Hereof fail not at your peril.

GIVEN under my hand at , this day
of , 1854.

JOHN SMITH, Justice of the Peace.

OATH TO BE TAKEN FROM A WITNESS BEFORE
ARBITRATORS.

You Do solemnly swear; That the evidence you shall give to
the Arbitrators here present, on a controversy, [or on certain
matters in controversy,] between William Rogers and John
Molson, shall be the truth, the whole truth, and nothing but the
truth: So help you God.

REVOCATION TO ARBITRATORS,

To Abbott Lawrence, Charles Jones and Henry Tobin, Esquires :

TAKE NOTICE, That I do hereby revoke your powers as arbitrators under the submission made to you by John Molson and myself, in writing, [*or, as the case may be.*] Dated at
on this day of , A.D. 185

WILLIAM ROGERS.

NOTICE OF REVOCATION.

To John Molson :

YOU ARE HEREBY NOTIFIED, That I have this day revoked the powers of Abbott Lawrence, Charles Jones and Henry Tobin, As arbitrators chosen to settle the matters in controversy between us; And that the following is a copy of such Revocation: [*here copy the Revocation.*] Dated at , this day
of , A.D. 185

Yours respectfully,

WILLIAM ROGERS.

THE AWARD.

TO ALL TO WHOM THESE PRESENTS SHALL COME, OR MAY CONCERN :
Send Greeting:—We Abbott Lawrence, Charles Jones and Henry Tobin, to whom were submitted as Arbitrators, the matters in controversy existing between William Rogers, of the Town of , in the County of , of the Province of Canada, trader, and John Molson, of the same place, in the said Province, iron-founder, as by the condition of their respective bonds of submission, executed by the said parties, respectively each to the other (*or where there is no bond, Say*; as by their submission in writing;) and bearing date the day of , A. D. 185 , more fully appears: NOW THEREFORE KNOW YE, That We, the Arbitrators mentioned in the said bonds, (*or, submission, as the case may be*;) having been first duly sworn according to law, and having heard the evidence and allegations of the parties, and examined the matters in controversy by them submitted: Do make this our Award in writing; that is to say: First we do award and order, that the said John Molson, shall make, execute and deliver, on or before the day of next, a good and sufficient deed of conveyance in fee-simple with the usual Covenants, of a certain piece or parcel of land, situate, lying and being, in the Town of , and County of , (*here give the bounds*;) and the said William Rogers shall pay, or cause to be paid, to the said John Molson, the sum of pounds, immediately upon the execution and delivery of the said deed,

THE OATH OF ALLEGIANCE.

deed, (or if for damages, *here name the subject matter in dispute*) and say: We the said arbitrators do award and order that the said John Molson shall pay or cause to be paid to the said William Rogers, the sum of pounds lawful money of this Province as damages also to pay the sum of pounds in full satisfaction of all the costs, charges and expenses, incurred by or in consequence of the said arbitration and this our award in writing. And we, do further award and adjudge, that the said William Rogers and John Molson, shall, and do within ten days next ensuing the date hereof, seal and execute unto each other, mutual and general releases, of all actions, cause and causes of action, suits, controversies, claims and demands whatsoever, for, or by reason of, any matter, cause, or thing, up to the date of the said bonds of arbitration, (or the said submission.)

IN WITNESS WHEREOF, we the said arbitrators, have hereunto set our hands and affixed our Seals, to these presents.

Dated, at , this day of , one thousand eight hundred and fifty-

in presence of

OLIVER MORRIS,
JAMES HALL.

}

ABBOTT LAWRENCE,
CHARLES JONES,
HENRY TOBIN.

[Seal]
[Seal]
[Seal]

AFFIDAVIT OF THE EXECUTION OF THE AWARD.

PROVINCE OF CANADA, County of , to Wit:

Oliver Morris and James Hall, of the said County, being duly sworn depose and say: That they were present, and did see Abbott Lawrence, Charles Jones and Henry Tobin, sign, publish and declare, their final award and arbitration in writing, between William Rogers, of the Town of , in the County of , of the Province of Canada, trader, and John Molson of the same place, in the said Province, iron-founder, bearing date the day of , A. D. 185 , and hereunto annexed; that the names Abbott Lawrence, Charles Jones and Henry Tobin, subscribed to the said award, are the proper and genuine signatures of the said arbitrators; and that we set our names as subscribing witnesses to the said award, at the time of its execution and publication as aforesaid: and further we say not.

SWORN to, at

day of , A. D. 185 , before me,

JOHN SMITH, Justice of the Peace.

OLIVER MORRIS,
JAMES HALL.

THE OATH OF ALLEGIANCE.

I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (or the reigning Sovereign for the time being,) as lawful Sovereign of the

the United Kingdom of Great Britain and Ireland, and of this Province, dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which shall be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I shall know to be against Her or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary; So help me God.

And also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as hath been heretofore required, or shall be hereafter required in any Act to be passed in that behalf.

OATH BY A MAYOR, ALDERMAN OR COUNCILLOR.

To be taken before any Two or more Alderman or Councillors:

I, Henry Richard King, having been elected Mayor, (or Alderman or Councillor, *as the case may be*), for the City of _____, (or Town of _____), do sincerely and solemnly swear, that I will faithfully fulfil the said office, according to the best of my judgment and ability; And that I am seized or possessed, for my own use, of real or personal estate, or both, in the said City of _____, (or Town of _____), after the payment or deduction of my just debts, of the value of one thousand pounds (or five hundred pounds, *as the case may be*), and that I have not fraudulently or collusively obtained the same, or a title to the same, for the purpose of qualifying myself to be elected Mayor, (Alderman, or Councillor, *as the case may be*), as aforesaid; So help me God.

ASSESSOR'S OATH.

I, Albert Stewart, of the Town of _____, or City of _____, having been appointed Assessor for the said Town of _____, or of the said City of _____, (*as the case may be*), do swear, that I will faithfully, impartially, honestly and diligently, execute all the duties of the said office, according to the best of my skill and knowledge; So help me God.

N.B.—Assessors are also required to take the Oath of Allegiance. The Oaths are to be taken before the Mayor, or any two Members of the Council thereof.

AUDITOR'S OATH.

I, Charles Armstrong, having been appointed to the office of Auditor for the Municipal Corporation of _____, do hereby promise and swear, that I will faithfully perform the duties

TREASURER'S CERTIFICATE TO CANCEL A DEED.

duties of such office according to the best of my judgment and ability; and I do swear and declare, that I had not directly or indirectly any share or interest whatever in any contract or employment with, by, or on behalf of such Municipal Corporation during the year preceding my appointment, and that I have not any contract or employment for the present year. So help me God.

CERTIFICATE FROM A TREASURER OF A COUNTY.

I, **TREASURER** of the County (or United Counties) of _____, do hereby certify, That I have received from _____, the sum of _____, being the whole amount payable according to the provisions of an Act of the Province of Canada, passed in the sixteenth year of Her Majesty's Reign, intituled, *An Act to provide for the recovery of the rates and taxes intended to be imposed by certain By-laws of the late District Councils of Upper Canada*, and chaptered in redemption of lot (or part of lot describing it, or acres of lot, as the case may be,) number _____ in the _____ Concession of the Township of _____, which was sold by the Sheriff of the District of _____ (or County of _____), for arrears of taxes on the _____ day of _____, in the Town of _____, of the said County, in the year of our Lord one thousand eight hundred and fifty-
Dated at _____, in the County of _____, this _____ day of _____, A. D. 1854.
(Signed,) _____ A. B.,
Treasurer.

The above Certificate to be furnished to the person so redeeming by the Treasurer without any charge, which Certificate; the Registrar of the County is required to Register, on payment to him a fee of two shillings and sixpence. See Statutes of 16 Vict., cap. 193, sections ix and x., 1853.

TREASURER'S CERTIFICATE TO CANCEL A DEED.

By Writing Across the Face of it as Follows:

THIS DEED is cancelled by me _____, Treasurer of the County (or United Counties) of _____, the land described therein having been redeemed on the _____ day of _____, in the year of A. D., 1854.
(Signed,) _____ A. B.,
Treasurer.

* The Deed so cancelled, to be delivered by the Treasurer to the _____

the Registrar of the County in which the land is situate, who is required to file it without charge with the Certificate of the redemption of the same land."

AGRICULTURAL SOCIETY DECLARATION.

WE, WHOSE NAMES ARE SUBSCRIBED HERETO, Agree to form ourselves into a Society, under the provisions of the Act of the Legislature of this Province, intituled, An Act to provide for the establishment of a Bureau of Agriculture, and to amend and consolidate the Laws relating to Agriculture. Assented to, 10th November, 1852, To be called the "County (Township or Branch, as the case may be,) Agricultural Society of the County of

" (or Township of) ; and we hereby severally agree to pay to the Treasurer yearly, while we continue Members of the said Society, (any Member being at liberty to retire there from, upon giving notice in writing, at any time before the annual Meeting, to the Secretary of his wish so to do) the sums opposite our respective names ; and we further agree to conform to the Rules and By-laws of the said Society.

Names.	£	s.	d.

The Society to consist of at least fifty Members, each to pay not less than Five Shillings annually to the funds of the said Society, and a true copy of the said Declaration shall within one month after being so signed be transmitted to the Board of Agriculture.

AFFIDAVIT TO THE BOARD OF AGRICULTURE.

I, A. B., of the Township of , Treasurer of the County Agricultural Society of , make oath and say, that the sum of , has been paid into my Hands since the first day of February last, by the Township Agricultural Societies of the said County, as and for the Members' subscription for this year ; and that the sum of has been paid into my Hands, as subscriptions for this year, by Members of the said County Society ; and that the said sums, making in the whole the

DEBENTURE FOR THE LOAN OF MONEY.

the sum of _____, now remain in my hands, ready to be disposed of according to law.

Sworn to before me, this _____ day of _____
A. D. 185 . John Smith, } A. B.
Justice of the Peace for the County of _____

INSTRUMENT TO BE EXECUTED BY JOINT STOCK COMPANIES.

This Instrument to be Registered in the County in which such work shall be situated.

BE IT REMEMBERED, That on _____ day of _____, in the year of our Lord one thousand eight hundred and _____, We, the undersigned Stockholders, met at _____, in the County of _____, in the Province of Canada, and resolved to form ourselves into a Company, to be called (*insert the name intended to be taken by the Company,*) according to the provisions of a certain Act of the Parliament of this Province, intituled, *An Act to provide for the formation of Joint Stock Companies,* for the purpose of constructing a Pier (*or Piers,*) Wharf (*or Wharves,*) and making (*or dredging*) a Harbour (*or constructing a Dry Dock,* at (*name of the place.*) And we do hereby declare that the capital Stock of the said Company shall be _____ pounds, to be divided into _____ Shares, at the price or sum of Five Pounds each. And we, the undersigned Stockholders, do hereby agree to take and accept the number of Shares set by us opposite our respective signatures; and we do hereby agree to pay the calls thereon, according to the provisions of the said in part recited Act, and of the Rules and Regulations, Resolutions and By-laws of the said Company to be made or passed in that behalf; and we do hereby nominate (*the names to be here inserted,*) to be the first Directors of the said Company.

See the Act in the Statutes of 16 Vict., cap. 124, 1853.

Name.	Number of Shares.	Amount.

DEBENTURE FOR THE LOAN OF MONEY.

THE MONTREAL AND BYTOWN RAILWAY COMPANY.

Number _____ £ _____ Sterling (*or Currency.*)

THIS DEBENTURE WITNESSETH: That the Montreal and Bytown Railway

Railway Company, under the authority of the Provincial Statute passed in the Sixteenth year of her Majesty's Reign, intituled, *An Act to Incorporate the Montreal and Bytown Railway Company*, have received from _____, of _____, the sum of _____ currency, [or sterling,] as a Loan, to bear interest from the date hereof, at the rate of _____ per centum per annum, payable half-yearly on the _____ day of _____, and on the _____ day of _____, which sum of _____, currency, [or sterling,] the said Company bind and oblige themselves to pay on the _____ to the said _____ or to the bearer hereof; and to pay the interest thereon half yearly, as aforesaid, on the production of the coupon therefor, which now forms part of this Debenture.

And for the due payment of the said sum of money and interest, the said Company, under the power given to them by the said Statute, do hereby mortgage and hypothecate the real estate and appurtenances hereinafter described, that is to say: *The whole of the Railroad from the City of Montreal to Bytown aforesaid, including all the Lands at the Terminus of the said Road, and all the Lands of the Company within those limits, and all buildings thereon erected, and all and every the appurtenances thereto belonging.*

IN TESTIMONY WHEREOF _____, President of the said Company, hath hereto set and affixed his signature, and the common Seal of the said Company, at the City of Montreal, this _____ day of _____, one thousand eight hundred and _____.

Countersigned and entered

President.
Secretary.

I Certify that this Debenture was duly registered in the Registry office for the County of Montreal, in the District of Montreal, on the _____ day of _____ one thousand eight hundred and _____, at _____ of the clock in the _____ noon, in Register _____ page _____.

A. B.,
Registrar.

CERTIFICATE GIVEN BY AN INSPECTOR OF BEEF AND PORK.

I do hereby certify, that I, Henry Boyd, have inspected barrels of Cargo, Mess or Prime Beef, or Mess or Prime Pork, [as the case may be,] the property of _____, and that the said Mess, Prime or Cargo Beef, Mess or Prime Pork, is in every respect packed and branded agreeable to the laws of the Province of Canada, Dated at _____, this _____ day of _____, A. D. 185 _____.

HENRY BOYD,
Inspector.

RECEIPTS—ON ACCOUNT, IN FULL, ETC.

RECEIPTS.

General form of a Receipt on Account.

£37 10s. 0d., Cy.

Toronto, October 18th, 1853.

Received of John Smart, thirty-seven pounds ten shillings, currency, to apply on his account.

W. H. RICHMOND.

Receipt in Full.

£63 0s. 0d., Cy.

Toronto, October 18th, 1853.

Received of John Smart, sixty-three pounds, currency, in full of all demands against him.

W. H. RICHMOND.

Receipt for Money paid on a Note.

£25 0s. 0d., Cy.

Toronto, October 22nd, 1853.

Received of Lewis Hill, twenty-five pounds, currency, to apply on his note for the sum of ninety-two pounds, Cy, and dated at Montreal July 13th, 1853.

W. H. RICHMOND.

Receipt for Money paid by Third Person.

£17 10s. 0d., Cy.

Toronto, October 22nd, 1853.

Received of William Thain, by the hand of James Stewart, seventeen pounds ten shillings, currency, to apply on the account of said Wm. Thain.

ROBERT RAYTON.

Receipt for Money received for Another.

£150 0s. 0d., Cy.

Quebec, October 22nd, 1853.

Received of Lewis Dole, one hundred and fifty pounds, currency, it being for the balance of account due from said Lewis Dole to Wm. Henry.

W. H. RICHMOND.

Receipt

Receipt for a Quarter's Rent.

Hamilton, November 3rd, 1853.

£75 0s. 0d., Cy.

Received of Ephraim James, seventy-five pounds, currency, being for one quarter's rent, due this day, for my store and dwelling house, No. street, now occupied by said Ephraim James.

HENRY OSGOOD.

Of Papers.

Montreal, November 4th, 1853.

Received of Lewis Dole, several contracts and papers, which are described as follows:—(here describe the papers), which I promise to return to said Lewis Dole on demand.

W. H. RICHMOND.

Receipt for Money on a Bond.

Montreal, November 4th, 1853.

£40 0s. 0d., Cy.

Received of Lewis Dole, forty pounds, currency, to apply on his bond, dated the day of , 18 , being the same sum this day endorsed on said bond.

W. H. RICHMOND.

Receipt for Interest Money.

Montreal Nov. 5th, 1853.

£27 10s. 6d., Cy.

Received of Lewis Dole, twenty-seven pounds ten shillings and six pence, currency, being the annual interest due on his bond, dated the 5th day of Nov., 1852, given to me, (or to Ansel Shaw,) and conditioned for the payment of the sum of pounds shillings, in years from date, with annual interest.

W. H. RICHMOND.

Receipt to be Endorsed on a Bond.

Montreal, November 5th, 1853.

£27 10s. 6d., Cy.

Received of Lewis Dole, twenty-seven pounds ten shillings and six pence, currency, being the annual interest due on the within bond, and the same sum this day receipted by me to the said Lewis Dole.

W. H. RICHMOND.

Receipt

ORDERS—FOR GOODS, MONEY, ETC.

Receipt for a Note of a Third Person.

Montreal, November 5th, 1853.

Received of Lewis Jacobs a promissory note against Wm. Henry, (dated Sept., 25th, 1853, and on which there is due forty pounds, currency,) which, when paid, shall be in full of all demands, against the said Lewis Jacobs.
£40 0s. 0d., Cy.

W. H. RICHMOND.

NOTE.—A receipt in full, though strong evidence, is not conclusive; and a party signing such receipt will be permitted to show a mistake or error therein, if any exist.

Receipts for the payment of money are open to examination and may be varied, explained, or contradicted, by parole testimony.

ORDERS.

An Order for Goods.

Toronto, Oct. 11th, 1853.

Mr. Henry Bacon,

Sir, please pay David Jones or order, six pounds fifteen shillings, in goods from your Store, and charge the same to my account.

And oblige your obdt. servt.,

£6 15s. 0d., Cy.

W. H. RICHMOND.

An Order for Money.

Hamilton, Oct. 20th, 1853.

Messrs Hagerty, Wight & Co.,

Gentlemen, please pay Oliver Smith or order, four pounds, currency, and this shall be your receipt for the same, it being for value received.

£4 0s. 0d., Cy.

W. H. RICHMOND.

Another.

Quebec, Oct. 25th, 1853.

Mr. Charles Jones,

Sir, please pay Stilman French or order, five pounds eleven shillings and nine pence, currency, and this shall be your receipt for the same.

£5 11s. 9d., Cy.

W. H. RICHMOND.

DUE

DUE BILLS.

Toronto, Nov. 7th. 1853.

Due W. H. Richmond, or order, three pounds five shillings, currency, payable in goods from my store, on demand, for value received.

£3 5s. 0d., Cy.

H. WELLINGTON.

Quebec, Nov. 15th, 1853

Due James T. Williams, or bearer, two pounds six shillings, currency, payable one day after date, for value received.

£2 6s. 0d., Cy.

THOMAS TILESTON.

BORROWED MONEY.

Montreal, Oct. 25th, 1853.

£25 0s. 0d., Cy.

Borrowed and received of Alvin S. Walling, the sum of twenty-five pounds, currency, payable to his order in ten days from date, with interest.

W. H. RICHMOND.

MAXIM.

Never endorse a note or other obligation for any body, rich or poor, for an amount which you cannot afford to lose. If it becomes necessary that you should, in the course of business transactions, reciprocate with one or more persons the liability which the ceremony of endorsing paper, made payable at a bank, or elsewhere involves, let the individuals with whom you would negotiate such an intercourse, be men of tried judgment, of experience, and of prudence.

NOTES ON TIME.

Promissory Notes Payable at a Bank.

Toronto, June 10th, 1853.

£75 15s. 2d., Cy.

Three months after date. we promise to pay W. H. Richmond, or order at the Montreal Bank. in this City the sum of seventy-five pounds fifteen shillings and two pence, currency, for value received.

RICHMOND & JOHNSON.

No. Due 10th & 13th Sept., 1853.

NOTES ON TIME—JOINT AND SEVERAL, ETC.

Quebec, July 12th, 1853.

£100 7s. 0d., Cy.

Six months after date, I promise to pay Richmond & Johnson, or order, at the office of the City Bank here, the sum of one hundred pounds seven shillings, currency, for value received.

CHARLES WELLINGTON.

No. Due 12th & 15th Jany., 1854.

Joint and Several Note, Payabl. at a Bank with Interest.

Montreal, Nov. 2nd, 1853.

£500 0s. 0d., Cy.

Three months after date, we jointly and severally promise to pay to the order of Richard Hall, at the People's Bank, the sum of five hundred pounds, currency, with interest, for value received.

HIRAM WELTON.

WM. T. RICHMOND.

No. Due 2nd & 5th Feby., 1854.

Notes Payable at the Payee's office or store.

Montreal, Nov. 7th, 1853.

£125 0s. 0d., Cy.

Four months after date, I promise to pay to the order of Charles Lagrange, at his office here, the sum of one hundred and twenty-five pounds, currency, for value received.

H. RICHMOND.

No. Due 7th & 10th March, 1854.

Toronto, Nov. 10th, 1853.

£87 9s. 6d., Cy.

Six months after date, we promise to pay James Waldo & Co., or order, at their store in Hamilton, the sum of eighty-seven pounds nine shillings and six pence, currency, for value received.

H. R. WELLINGTON & Co.

No. Due 10th & 13th May, 1854.

Cobourg, Nov. 15th, 1853.

£38 0s. 0d., Cy.

On the twenty-fifth day of January next, I promise to pay to the order of Henry Walden & Co., the sum of Thirty-eight Pounds currency, for value received.

WM. RICHINGTON.

No. Due 25th & 28th Jany., 1854.

St. Catherines, Sept. 16th, 1853.

£18 2s. 0d., Cy.

One month after date, I promise to pay Hiram Jones, or bearer, eighteen pounds two shillings, currency, for value received.

RICHARD SILVER.

No. Due 16th & 19th October, 1853.

Note, not Negotiable.

Toronto, Nov. 18th, 1853.

£25 0s. 0d., Cy.

Three months after date, I promise to pay John Smith twenty-five pounds, currency, for value received.

W. R. HARRINGTON.

No. Due 18th & 21st Feby., 1854.

On Time, with Interest.

Kingston, Nov. 11th, 1853.

£94 0s. 0d., Cy.

Two months after date, I promise to pay to the order of Harrison & Hill, at their place of business, the sum of ninety-four pounds, currency, with interest, for value received.

STEPHEN FAIRPLAY.

No. Due 11th and 14th Jany., 1854.

Montreal, Nov. 15th, 1853.

£109 12s. 6d., Cy.

Eight months after date, I promise to pay James Dunville, or order, one hundred and nine pounds, twelve shillings and six pence, currency, with interest, for value received.

J. T. WELLINGHAM.

No. Due 15th & 18th July, 1854.

On Demand.

London, Nov. 11th, 1853.

£18 13s. 4d., Cy.

On demand, I promise to pay to the order of John Richmond, the sum of eighteen pounds thirteen shillings and four pence, currency, for value received.

JAMES WELLING.

N. B.—This note draws interest only from the time payment is demanded.

CHEQUES ON A BANK—NOTE PAYABLE BY INSTALMENTS, ETC.

On Demand, with Interest.

Hamilton, Nov. 14th, 1853.

£100 0s. 0d., Cy.

On demand, I promise to pay to the order of
C. Richmond, the sum of one hundred pounds, currency, with
interest, for value received.

WELLING ALLEN.

Note payable by instalments, with periodical Interest.

Quebec, Dec. 17th, 1853.

£200 0s. 0d., Cy.

For value received, I promise to pay Samuel
Hill, or order, two hundred pounds, in the following manner,
viz.: fifty pounds in one year, fifty pounds in two years, fifty
pounds in three years, and fifty pounds in four years from the
date hereof, with interest on all said sums, payable semi-annually

ROGER WELLINGTON.

CHEQUES ON A BANK.

Montreal, Nov. 10th, 1853.

£703 0s. 0d., Cy.

To the Cashier of the Bank of Montreal, please
pay S. H. Smith, or bearer, seven hundred and three pounds,
currency.

No .

W. A. REFIELD.

Another.

To the Cashier, or Manager, (as the case may be,) of the
Branch Bank of Montreal.

£78 10s. 0d., Cy.

Toronto, Jan. 10th, 1854

Pay to William Holton, the sum of seventy eight pounds ten
shillings, currency.

No.

WELLINGTON H. RICHMOND.

N. B.—This Checque is not transferable, as the term, "or
bearer," has been purposely omitted, in case it should happen to
get lost, it would not be of any value to any party but those that
are interested. Therefore the last checque is preferable to
the first.

RESPECTING

RESPECTING PROMISSORY NOTES.

A Promissory Note is an engagement in writing to pay a certain sum of money, mentioned in it, to a person named, or to his order, or to such person or bearer.

A Note, in its original form of a promise from one person to pay a sum of money to another, bears no particular resemblance to a bill of exchange; but when it is endorsed, there is a very great resemblance, for then it is an order by the endorser to the maker of the note, to pay the money to the endorsee. The endorser of the note corresponds to the drawer of the note; the maker to the drawee or acceptor, and the endorsee to the payee. The rights and obligations of these corresponding parties, are nearly or quite the same. It will not be necessary, therefore, to repeat all the rules that are applicable to, and govern the parties to a promissory note; we will, however, state the principal ones, and first, of the requisites of Promissory Notes.

No precise form of words is necessary to constitute a valid promissory note. A promise to account for a certain sum, or an acknowledgment of indebtedness for value received, is sufficient.

Like bills of exchange, they must be for the payment of money only, and not for the performance of some other act; and the amount to be paid must be fixed, and not variable, and must not depend upon contingency, but must be payable absolutely and at all events.

There should be no uncertainty as to the person by whom or to whom it is payable. For example, a note payable to H. Jones, or to Lewis Davis, is not a valid promissory note.

A note payable to bearer generally, or to the payee or bearer, is transferable by mere delivery; and possession of such a note is *prima facie* proof of title. But if a note is drawn payable to the order of the payee, the title will pass only by the endorsement of the payee; and if the endorsement be in full, the title passes to the person named therein; but if it be in blank, it passes to the holder by delivery merely.

To make a note payable at a particular place, it is not sufficient that there be a memorandum of the place at the bottom or margin thereof but it must be expressed in the body of the note itself, and form a part thereof.

The words "value received" are not essential to the validity of a promissory note, although they should be inserted.

A note may be made by two or more persons; and in that case may be joint or joint and several, according to its form. The makers of a joint and several note, may be sued upon it either jointly or separately; and if sued separately, a recovery of Judgment (without satisfaction) against one, will not be a bar to a recovery against another maker. But the makers of a joint note, should be sued jointly; for if they are sued separately, the

CONSIDERATION—PRESENTMENT FOR PAYMENT.

action can be defeated by a plea in abatement of the non-joinder of the other maker, or makers.

A note signed by two or more persons, written thus ;—" We promise to pay," &c., is a joint note only ; otherwise, if the words "jointly and severally" be added. A note written, "I promise to pay," &c., signed by two or more persons, is a joint and several note.

All who have signed or endorsed a note, are jointly and severally liable to the holder.

Consideration.

A valuable consideration is necessary to support a promissory note. A consideration founded in mere love or affection is not sufficient. Thus, a note drawn as a gift to a son or other relative, or to a friend, cannot be enforced as between the original parties. A mere moral obligation, though coupled with an express promise, is not sufficient consideration to support a note. A consideration which the law esteems valuable must exist, in order to furnish a just foundation for an action.

A note will be void, as between the original parties, if founded upon fraud, or where undue advantage was taken to obtain it of the maker ; as, for instance, getting the maker intoxicated, for the purpose of obtaining his note.

Illegal consideration also will render a note void ; as, when a note is given for the perpetration or concealment of a crime, or for a wager, or whenever the consideration is founded upon a transaction against sound morals, public rights, or public interests. There is but one case in which a note is void in the hands of an innocent endorser for a valuable consideration ; and this is when the consideration in the note is money won at a play.

NOTE.—Usurious interest according to our statutes for 1853 do not render a note of hand void, but in case it comes to suit the principal and six per cent, is allowed according to law.

Of Presentment for Payment.

The contract of the maker being to pay the note upon due presentment at maturity, in order to charge the endorsers, it is the duty of the holder to demand payment of the maker on the very day on which, by law, the note becomes due ; and unless the demand be made the holder loses his remedy against the endorsers, although the maker would still be liable. The rules that were given to determine when bills of exchange become due apply as well to notes. Three days grace are allowed on all notes except those payable on demand, and those in which no time of payment is expressed ; on such no days of grace are allowed.

When a note is made payable at any particular place, as, for instance, at a certain bank, due presentment must be made at that place in order to render the endorsers liable in case of non-payment. Notes payable at a particular bank, should be left with that bank for payment.

If the note is payable generally, without any specification of place, the holder may present it for payment to the maker wherever he may be found; but it is not absolutely necessary that a personal demand be made; a demand at the maker's place of abode or business, is a good demand in some cases. The holder must use reasonable diligence in finding the maker, or his place of abode or place of business, in order to charge the endorsers. But the maker is liable without such demand,

Proceeding on Non-payment,

No protest is required to be made upon the dishonour of a note; although it is common to protest them for non-payment, especially in commercial towns. But in every case of the dishonour of a note, it is the duty of the holder to give due notice thereof to all the prior parties on the note to whom he means to look for payment; for the holder cannot recover against a party to whom he has failed to give due notice of the dishonour.

Of payment.

If the maker makes due payment of a note to a bona fide holder, it will amount to a complete discharge of all other parties thereto.

But when payment is duly made by an endorser to the holder, such endorser, as a general rule, will retain his right to recover over against all the antecedent parties to the note, until he has received a full indemnity; such payment, however, will discharge all the endorsers, subsequent to himself.

Interest.

Interest is recoverable on a promissory note, in which there is no special agreement to pay interest, from the time when the principal becomes due, or ought to have been paid. A note payable on demand carries no interest till a demand is made, either by suit or otherwise, unless there is an agreement to pay interest. A note not on demand, in which no time of payment is mentioned, draws interest from date.

Whenever there is a special agreement to pay interest, that is, when the words "with use," or "with interest," &c., are contained in the note, it draws interest, of course, according to such agreement or contract.

AN ENDORSER--RESPECTING CHATTEL NOTES.

In Canada West a note is outlawed in six years, from the time it becomes due. The statutes require that all claims founded upon any instrument or contract not under seal, actions for the same must be commenced within six years, next after the cause of action accrued, and not after.

And in Canada East a note is outlawed in five years, from the time it becomes due. (See Section 31 of 12 Vict., cap. 22, on page 293, in this work.)

Of Notice to an Endorser.

In giving notice to an endorser, it is not necessary that any particular form should be observed, provided that you describe the note for which he is bound, in such terms as can leave no room for him or others to misconstrue your meaning. If you state in your notice the date of the note, the amount, the time on which it became due, together with the maker's name, it is presumed that would be quite sufficient. It may be well to present a short and convenient form as follows :

Form of Notice.

Mr. Joseph Draper,

Sir,—The note for two hundred and ten pounds, currency, dated September the twentieth, eighteen hundred and fifty-three, that I hold against Jacob Rich, as maker, and which became due January the twentieth and twenty-third, and on which you are endorser, remains unpaid ; therefore I shall look to you for the payment thereof.

SAMUEL HALL.

Toronto, January 23rd, 1854.

RESPECTING CHATTEL NOTES.

We have seen that in order to constitute a promissory note, it must be for the payment of money only ; if then a note be payable otherwise than in money, it is called a chattel note. Chattel notes are not negotiable, and, cannot be sued except in the name of the payee. No days of grace are allowed upon them.

It is the duty of the maker of a chattel note, payable in specific articles, at a place mentioned in the note, to tender the articles, at that place, and at the time the note becomes due. If the maker neglects to make such tender, he will be liable to the payee to pay him the amount of the note in cash. But if, on the other hand, the maker tender the articles mentioned in the note,

note, at the proper time and place, according to the contract, and the creditor neglects or refuses to receive them, the debt is thereby discharged; but the right of property in the articles tendered passes to the creditor. The debtor may abandon the goods tendered; but if he still elects to retain possession of them, he will be considered as bailee of the creditor, at his (the creditor's) risk and expense. The relation of debtor and creditor would in such case be changed to that of bailor and bailee.

There is a difference as to tender between portable and cumbersome articles. With respect to the former, a tender as above must be made; as to the latter, it will be sufficient if the debtor offer to deliver as the creditor shall direct.

CHATTEL NOTES.

No. Due 17th Dec. 1853.

Three months after date, I promise to pay Charles Dill, or order, one hundred and fifty bushels of good merchantable wheat, at the going price, to be delivered at the residence of, (or store of,) said Charles Dill, the same to be placed to my credit.

W. H. RICHMOND.

Toronto, Sept. 17th, 1853

Payable in Stock, with Interest.

Montreal, Nov. 5th, 1853.

£15 7s. 0d., Cy.

Three days after date, I promise to pay Charles Dill, or order, fifteen pounds seven shillings, currency, in stock such as he may choose, at the valuation of three disinterested persons, judges of the value of such stock, delivered at my residence, with interest, for value received.

SAMUEL F. HILL.

No. Due 18th Nov., 1853.

On Demand.

Toronto, Jany. 18th, 1854.

£27 10s. 0d., Cy.

On demand, I promise to pay to the order of W. H. Richmond, at my place of residence, in this city, twenty-seven pounds ten shillings, currency, worth of superfine flour.

CHARLES DILL SMITH.

On

CHATEL NOTES—BILLS OF EXCHANGE.

On Time.

Port Hope, Oct. 18th, 1853.

£12 10s. 0d., Cy.

Two months from date, I promise to pay to Wellington Jones, or bearer, at my place of residence in Bowmanville, twelve pounds ten shillings, currency, worth of sound and merchantable winter apples.

DONALD PIPER.

No. , Due 18th Dec., 1853.

Joint and Several Note.

Brantford, Dec. 19th, 1853.

£125 0s. 0d., Cy.

Three months after date, we jointly and severally promise to pay to the order of Louis Terroux, at our place of residence, in the town of Brantford, one hundred and twenty-five pounds, currency, worth of good, healthy and merchantable cows, sheep, swine, and the balance, if any, in peas, at the market price, for value received.

HARRISON LYMAN.
DANIEL HOOKER.

No. , Due 19th March, 1854.

A SET OF BILLS OF EXCHANGE.

Toronto, Dec. 23rd, 1853.

No. 1. Exch. £250 Stg.

Thirty days after sight of this first of Exchange, (second and third of the same tenor and date, being unpaid,) pay Messrs. A. Shaw & Co., or order, two hundred and fifty pounds, sterling, value received, and place the same to my account, as per advice.

To Mr. Samuel Holmes, }
Merchant, London. }

W. H. RICHMOND.

Toronto, Dec. 23rd, 1853.

No. 1. Exch. £250 Stg.

Thirty days after sight of this second of Exchange, (first and third of same tenor and date being unpaid,) pay to Messrs. A. Shaw & Co., or order, two hundred and fifty pounds, sterling, value received, and place the same to my account, as per advice.

To Mr. Samuel Holmes, }
Merchant, London. }

W. H. RICHMOND!

Toronto,

Toronto, Dec. 23rd, 1853.

No. 1. Exch. £250 Stg.

Thirty days after sight of this third of Exchange, (first and second of same tenor and date being unpaid,) pay to Messrs. A. Shaw & Co., or order, two hundred and fifty pounds, sterling, value received, and place the same to my account, as per advice.

To Mr. Samuel Holmes, }
Merchant, London. }

W. H. RICHMOND.

A BANKER'S DRAFT.

Bank of Montreal Agency.

Hamilton, 27th Dec., 1853.

No. —.

£22 10s. 0d., Cy.

Three days after sight of this my first, (second not paid) please pay to the order of *W. & J. Bond, Twenty-two pounds ten shillings*, Halifax currency, and place the same to Account of this office.

To A. Simpson, Esq., }
Cashier, Bank of Montreal, }
Montreal. }

J. STEVENSON, Jr.
Agent.

DRAFTS OR INLAND BILLS.

Toronto, Dec. 27th, 1853.

No.—£125 Cy.

Three days after sight, pay to the order of Henry Smith, one hundred and twenty-five pounds currency, value received, and place the same to my account, as per advice.

JAMES SHEILDER.

To Messrs. Wright & Stone, }
Kingston, C. W. }

Another Draft.

Mr. William Perkins,
At Hamilton, C. W.

Sir, at sight, please pay *S. H. Bond*, or order, one thousand pounds, currency, for value received, and place the same to my account, and oblige your obedient servant,

£1000 Cy,

W. H. RICHMOND.

Toronto, Dec. 30th, 1853.

RESPECTING BILLS OF EXCHANGE.

Exchange is the act of paying or receiving the money of one country for its equivalent in the money of another country, by means of Bills of Exchange. This operation, therefore, comprehends both the reduction of moneys and the negotiation of Bills; it determines the comparative value of the currencies of different countries, and shows how foreign debts are discharged, and remittances made from one country to another without the risk, trouble, or expense of transporting specie or bullion.

A Bill of Exchange is a written order of request, addressed by one person to a second, desiring him to pay a sum of money to a third, or to any other to whom that third person shall order it to be paid; or it may be made payable to bearer.

Bills of Exchange are very useful to business men, who wish to send large sums of money to individuals living at a distance from them. "If A, living in Montreal, wishes to receive £250 sterling, which B, in London, owes him, he applies to C, who is going from Montreal to London, to pay him £250 pounds sterling, and takes his order or Draft on B for that sum, payable at sight. A receives his debt by transferring it to C, who carries his money across the Atlantic, in the shape of a Bill of Exchange, without any danger or risk in the transportation; and on his arrival at London, he presents the Bill to B, and is paid." It is a mercantile contract in which four persons are mostly concerned, as follows:

First.—The person who makes the bill is called the drawer.

Second.—He to whom it is addressed, the drawee; and when he undertakes to pay the amount, he is then called the acceptor.

Third.—The person who gives the value for the Bill, who is called the buyer, taker, and remitter.

Fourth.—The person to whom the Bill is ordered to be paid, who is called the payee, and who may, by endorsement, pass it to any other person to receive the money, that other is called the endorsee, as the payee is with respect to him, the endorser; any one who happens for the time to have the legal possession of the bill, is called the holder of it.

Many mercantile payments are made in Bills of Exchange, which pass from hand to hand until due, like any other circulating medium.

A bill is either foreign or inland. It is called foreign when drawn by a person in one province or country, upon one in another province or country; and inland, when both drawer and drawee reside in the same province or country. These last are generally termed drafts.

Foreign bills are usually drawn in sets; that is copies of the bills are made on separate pieces of paper, each part containing a condition that it shall continue payable only so long as the others

others remain unpaid. Whenever any one of a set is paid, the others are void; for the whole set constitute but one bill. The reason for drawing them in sets is, that in case one part is lost or accidentally destroyed, the other may be received by the drawee.

Of the Requisites of a Bill.

A Bill of Exchange must always be in writing. No precise form of words is necessary. It will be sufficient if it contain an order or direction by one person to another, to pay money to a third. It must be for the payment of money, and money only; and the sum to be paid must be payable absolutely and at all events, and must not depend upon any circumstance that may, or may not happen; the exact sum also must be inserted. The place where, and on which it is drawn, should appear on the face of the bill; there should be also a date. The time when bills are payable should be fixed; usually they are drawn payable at a certain time after sight, or after date; that is, after acceptance. It is not essential to the validity of a bill that it be negotiable, or that it contain the words "value received," although in many cases it is highly important that these words be inserted.

Of the Obligation of Parties.

The drawer's undertaking in a Bill of Exchange is, that the drawee, upon due presentment to him, shall accept such bill, and pay the same when due, and that if the drawee do not accept it, or pay it when due, he will pay the amount of the bill to the holder, together with certain damages, which the law allows; provided he is duly notified of such non-payment.

It is the payee's duty, if the bill remain in his possession, to present it to the drawee for acceptance and for payment, at the proper time and place, and in case the drawee refuse to accept or pay, to give notice without delay to the drawer of such refusal. If the payee endorse the bill, his undertaking, in regard to all subsequent holders, is exactly the same as the drawer's.

The obligations of the endorsee or holder, are the same as those of the payee previous to his endorsing the bill.

The acceptor undertakes, and is bound to pay the bill, according to the tenor of the acceptance, when it becomes due, and upon presentment thereof. In short, all those who have signed, accepted, or endorsed a Bill of Exchange, are jointly and severally liable upon it to the holder.

Of Transfer.

A bill which does not contain a direction or request to pay to the order of the payee or the bearer, is not negotiable or transferable,

BILLS OF EXCHANGE—FOR ACCEPTANCE, ETC.

ferable, so as to render the drawer or acceptor liable to the person to whom it is transferred, though the payee would be liable on his endorsing such bill, and the endorsee could recover against him.

A bill which is made payable to order is transferable only by endorsement; but if payable to the bearer, it is transferable by mere delivery. Endorsements are of two kinds—blank, and full or special endorsements. A blank endorsement is made by the mere signature of the endorser on the back of the bill; and if it be the signature of the payee, its effect is to make the bill thereafter payable to bearer.

An endorsement in full expresses in whose favour the endorsement is made. Thus an endorsement in full by Charles Dill is usually in this form: "Pay James Harrison or order," and signed "Charles Dill." Its effect is to make the bill payable to James Harrison or his order only.

An endorsee has a right to convert a blank endorsement into a special one, by writing over the signature the necessary words; and on the other hand he may convert a special into a blank endorsement, by striking out the words that made it an endorsement in full.

Of Presentment for Acceptance.

If a bill be drawn payable at sight, or at a certain period after sight, or after demand, it is absolutely necessary that the holder present it to the drawee for acceptance. For until such presentment there is no right of action against any party; and generally, unless it be made within a reasonable time, the holder loses his remedy against the antecedent parties.

Of Acceptance.

An acceptance is an engagement by the drawee to pay the bill when due. It may be general or conditional, and either before or after the bill is drawn. It must be in writing, though no precise form is necessary; any written words clearly denoting an intention to accept the bill are sufficient.

The holder is entitled to require from the drawee an absolute engagement to pay according to the tenor of the bill, unencumbered with any condition or qualification. If the drawee refuse to give the holder a general and unqualified acceptance, he may treat the bill as dishonoured.

A bill is said to be honoured when it is duly accepted; and when acceptance or payment is refused, it is said to be dishonoured.

Of Proceedings on Non-Acceptance.

Immediately upon the dishonour of a bill, by the refusal of the drawee to accept it, it is in general the indispensable duty of the holder to have the bill duly protested, and notice of such dishonour and protest given to the antecedent parties to whom he intends to look for indemnity.

The protest is generally drawn up by a notary public; it is a solemn declaration against any loss to be sustained on the part of the holder by the non acceptance or non-payment of the bill.

In respect to inland bills a protest is not absolutely necessary, although it is usual; notice of their dishonour, however, must be given by the holder to the antecedent parties, in order to make them responsible.

Upon non-acceptance of a bill, if due notice thereof has been given to the antecedent parties, the holder can insist upon immediate payment of the bill from them.

Of Presentment for Payment.

If the bill has been duly accepted, it is the duty of the holder to present it to the acceptor for payment on the very day on which it becomes due; and if the bill was accepted payable at a particular place, the holder is bound to make a demand of payment at that place. For, if the holder neglect to present the bill at such time and place, he cannot recover against the drawer or endorser in case the acceptor refuses payment.

In determining when a bill becomes due, days of grace, as they are called, must be allowed. It is a custom in this country to give three days grace on all bills except those payable on demand. Demand of payment must not be made, therefore, until the third day of grace, unless such day be Sunday or a holiday observed at public offices, and places of business, in which case demand must be made on the second day of grace.

Of Proceedings on Non-Payment.

The duties of the holder, upon dishonour of a bill by non-payment, are the same as upon dishonour by non-acceptance. He must make due protest for non-payment, and give due notice of the dishonour to the other parties to the bill; in which case the holder is entitled to a full satisfaction of all damages sustained by him by reason of the dishonour against such other parties to the bill; but if he neglect to do this the antecedent parties are discharged from all liability to the holder.

T
evid
othe
made
hold
Pay
not h
TH
a va
betw
accep
A
all pa
charg
endor

Extra
Wes

SECT

II. A
Provin
other p

III. A
heretof
from h
Gaols,
Schools
pertain
apperta
said Off
or Office
title on
County
Session
division
Offices
the sam
respectiv

COUNTIES SUBSTITUTED FOR DISTRICT DIVISIONS, (C. W.)

Of Payment and Other Discharges.

The acceptor being primarily liable on a bill of exchange, it is evident that a payment by him to the holder discharges all the other parties from liability on the bill, provided the payment is made without knowledge of any infirmity in the title of the holder, and the names of the parties to the bill are not forgeries. Payment by the acceptor should be made at maturity, and not before.

The drawer and endorers will be discharged from liability by a valid and binding agreement (in which they do not concur) between the holder and acceptor, whereby time is given to the acceptor for the payment of the bill after it is due.

A discharge to the acceptor, we have seen, is a discharge to all parties to the bill; but a discharge to an endorser is no discharge to the prior endorers, though it is to the subsequent endorers.

COUNTIES SUBSTITUTED FOR DISTRICT
DIVISIONS, (C. W.)

12 Vict., Cap. 78, 1849.

*Extract from the Act for abolishing the Territorial Divisions of Canada
West into Districts, &c.*

[Assented to, 30th May, 1849.]

SECTION

II. And be it enacted, That the division of that part of this Province called Upper Canada, into Districts for judicial and other purposes, shall be and the same is hereby abolished.

III. And be it enacted, That the Courts, Court Houses and Gaols, heretofore called District Courts, Court Houses and Gaols, shall from henceforth be called County Courts, Court Houses and Gaols, and the District Grammar Schools County Grammar Schools, and all and singular the Offices and Officers now appertaining to the said Districts shall henceforth belong and appertain to the said Counties respectively, and whenever the said Offices or Officers have the title or denomination of Offices or Officers, of or for the District, they shall henceforth have the title or denomination of Offices or Officers, of or for the County; and all laws at present in force, or during the present Session of Parliament made or to be made applicable to the said division of territory by the name of Districts, or the Courts, Offices or other Institutions thereof, shall be applied to and have the same operation and effect upon the said Counties and their respective Courts, Offices and other Institutions, as Counties.

IV. And be it enacted, That the Courts of Assize and Nisi Prius, and Oyer and Terminer, Gaol Delivery, Sessions of the Peace and District Courts, shall be held in and for the said Counties, as such Courts are now held for the different districts in Upper-Canada, and that the name County shall be used in designating such Courts, and also in all legal proceedings where the name District is now, or by any Act passed or to be passed during the present Session of Parliament, shall be used.

PRACTICAL REMARKS ON CONVEYANCES BY DEED OR MORTGAGE, ETC., ETC.

Certain Instruments of writing, such as Deeds, Bonds, Mortgages, Transfers, Leases, &c., are required by law to express a consideration as having been received by the person who conveys property, or grants privileges, from the person to whom the property is conveyed, or to whom the privilege is granted. They are often begun with the following preamble:—

THIS INDENTURE WITNESSETH, that on the tenth day of May, in the year of our Lord one thousand eight hundred and fifty-three Chas. Ball, of the Town of —, in the County of —, (in the District of —, if for property in Canada East,) of the first part, for and in consideration of the sum of five shillings, of lawful money, of the Province of Canada, to him in hand paid, the receipt whereof is hereby acknowledged and confirmed, HATH bargained and sold (or leased) &c., unto William Hall, of the (here insert town of —, County of —), (and add District of —, if for property in Canada East), of the second part, &c. &c. &c.

In presenting this short preamble, we have only one object in view, viz.: to inform those who are not aware of the fact, that a consideration is necessary, as the infallible wisdom and unquestionable authority of law, require that it should be observed.

Perhaps I shall be told, that the law is based upon the broad principle which entitles one person who sells property, or grants a privilege to another, to an equivalent in return, or in other words, that no man shall claim a right in the property of another, without paying him for it. The principle is good enough; but how far is it adhered to by its votaries? Five shillings is the sum commonly named as the consideration, and even one shilling would answer the end of law, although the amount of property, or the privilege bestowed, for which it is named as the consideration made in return, should be worth five thousand pounds.

All Instruments under seal are Deeds; but the term "deed" is generally understood as applying to conveyances of land, houses, &c. &c. The consideration of a deed may either be good or valuable. A good consideration is founded upon natural love

and
sider
good
E
purp

It i
safety
they r
fers o
certai
Crow
chase
are als
Goods
letter
trar, fo
full des
Inclosi
shilling
transm
spectin
after de
Prop
ment; 1
8th sect
notice to
This
Deeds, M
&c., sho
person to
ments R
See R
pages 38

Deed with

THIS IN
of our Lo
Merrill P
in the Dis
the first p

TAKING MORTGAGES—DEED WITHOUT DOWER.

and affection between near relations by blood; a valuable consideration is founded on something deemed valuable, as money, goods, service, or marriage.

Every deed or contract is void when made for any fraudulent purpose, or in violation of law.

TO THOSE PURCHASING PROPERTY, OR TAKING MORTGAGES.

It is essential that all Persons purchasing Property for the safety of themselves and others that are to succeed them: That they should first make themselves acquainted with all the transfers of the said Property, which are of Record; respecting that certain parcel or tract of land, since the same passed from the Crown by Grant or Purchase, or other properties of Record, purchased from Individuals, or Companies. The same precautions are also essential in case of Mortgages of Real Property, or of Goods and Chattels. This can be ascertained by addressing a letter (if not convenient to call personally,) to the County Registrar, for the County wherein the property is situated: Giving a full description of the property that the information is sought for. Inclosing a fee for making the searches, say the sum of five shillings, and the Registrar, after making a thorough search, will transmit per Mail a statement of all that appears of Record, respecting the said property; and the over plus of money, if any, after deducting his fees will be returned.

Property is given to the first Conveyance, or the first Judgment; registered. (see 13 & 14 Vict., cap. 63.) And by the 8th section, the mere fact of registration is declared to be full notice to all purchasers.

This Statute then does, in effect, render it necessary that all Deeds, Mortgages, Wills, Judgments, Conveyances, Bills of Sale, &c., should be registered; Therefore it will be well for every person to bear that in mind, and get their Deeds and other Documents Registered, without delay.

See Registry Law Amendment, 13 & 14 Vict., cap. 63 on pages 384 to 387, and section 8 of 16 Vict., on page 391, in this work.

DEED WITHOUT DOWER.

Deed without Dower.

THIS INDENTURE, made the ninth day of November, in the year of our Lord one thousand eight hundred and fifty-three, between Merrill Platt of the Township of Dunham, County of Missisquoi, in the District of Montreal, and Province of Canada, yeoman, of the first part; and Lazier Bogert Abraham of Ancaster, in the County



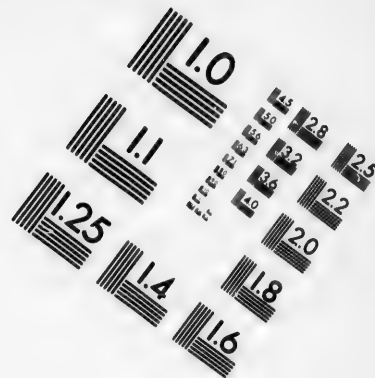
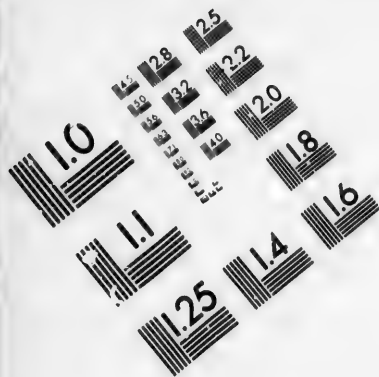
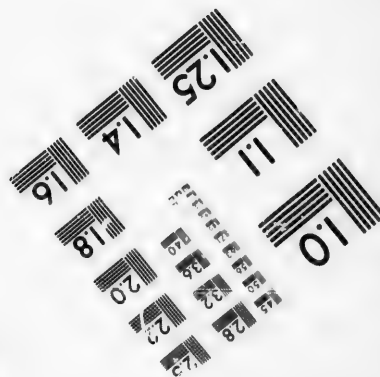
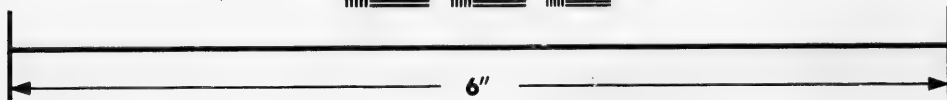
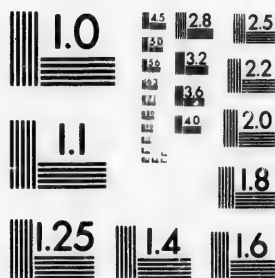


IMAGE EVALUATION TEST TARGET (MT-3)



Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

28
25
22
20
18

10
01

County of Wentworth, of said Province, sawyer, of the second part, WITNESSETH: that the said party of the first part, for and in consideration of the sum of eighty-five pounds, of lawful money of Canada, to him by the said party of the second part, in hand well and truly paid, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, HATH given, granted, bargained, sold, aliened, transferred, released, enfeoffed, conveyed, and confirmed, and by these presents doth give, grant, bargain, sell, alien, assign, transfer, release, enfeoff, convey, and confirm unto the said party of the second part, his heirs and assigns, All and Singular, that certain parcel or tract of land and premises, situate, lying and being in the Township of Sombra, in the County of Lambton, of the said Province, containing by admeasurement *one hundred acres of land* be the same more or less, being the south Half of lot number Twenty, in the eighth concession of the said Township of Sombra.

TOGETHER with All and Singular the houses, out-houses, buildings, woods, ways, waters, water-courses, easements, privileges, profits, hereditaments, and appurtenances whatsoever, to the said parcel or tract of land, tenements, hereditaments, and premises belonging, or in anywise appertaining, or therewith used and enjoyed, or known or taken as a part or parcel thereof, or as belonging thereto, or to any part thereof, and the reversion or reversions, remainder or remainders, rents, issues, and profits thereof: And also, all the estate, right, title, interest, use, trust, claim, property, and demand, both at law and in equity, of him the said party of the first part, of, in, to, or out of, the said lands, tenements, hereditaments, and premises, and every part thereof: TO HAVE AND TO HOLD the same lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances unto the said party of the second part, his heirs and assigns, to the sole and only use of the said party of the second part, his heirs and assigns for-ever: *Subject, Nevertheless* to the reservations, limitations, provisoes, and conditions expressed in the original grant thereof from the Crown. AND the said party of the first part doth hereby for himself and for his heirs, executors, and administrators, COVENANT, PROMISE, and AGREE to and with the said party of the second part, his heirs and assigns, in manner following, that is to say: THAT he the said party of the first part, at the time of the ensembling and delivery hereof, is and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute, and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments, and all and singular other the premises hereinbefore described, with their and every of their appurtenances, and of and in every part and parcel thereof, without any manner of reservation, limitation, provisoes, or conditions, (other than as aforesaid) or any other matter or thing, to alter, charge, incur-

ber
firs
and
lan
cel
sec
AN
par
quic
joy
her
wit
said
son
and
arre
or i
pre
vey
tion
chan
said
othe
ing,
title,
here
inter
from
his h
time
said
suffe
and
act
ance
absol
herec
said
coun
vised

IN
hereu
year
Signe
in

DEED WITHOUT DOWER.

ber or defeat the same. AND ALSO, that he, the said party of the first part, now hath in himself good right, full power, and lawful and absolute authority, to alien, convey, and dispose of the said lands, tenements, hereditaments, and premises, and part and parcel thereof, with the appurtenances, unto the said party of the second part, his heirs and assigns, in manner and form aforesaid: AND ALSO, that it shall and may be lawful to and for the said party of the second part, his heirs and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess, and enjoy the aforesaid lands, tenements, hereditaments, and premises, hereby conveyed, or intended so to be, with the appurtenances, without the let, suit, hindrance, interruption, or denial of him the said party of the first part, his heirs or assigns, or any other person or persons whomsoever, and that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever, due or payable upon or in respect of the said lands, tenements, hereditaments, and premises, or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions, and recognizances, and of and from all manner of other charges or incumbrances whatsoever: AND LASTLY, that he the said party of the first part, his heirs and assigns, and all and every other person or persons whomsoever, having or lawfully claiming, or who shall or may have, or lawfully claim any estate, right, title, interest, or trust of, in, to, or out of the lands, tenements, hereditaments, and premises hereby conveyed, as aforesaid, or intended so to be, with their appurtenances, or any part thereof, by, from, or under, or in trust for him the said party of the first part, his heirs and assigns, shall and will, from time to time, and at all times hereafter, at the proper costs and charges in the law of the said party of the second part, his heirs and assigns, make, do, suffer, and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act and acts, deed and deeds, devices, conveyances, and assurances in the law, for the further, better, and more perfectly and absolutely conveying and assuring of the said lands, tenements, hereditaments, and premises, with the appurtenances, unto the said party of the second part, his heirs and assigns, or his or their counsel learned in the law, shall be lawfully and reasonably devised, advised, or required.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands, and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,
in the presence of
C. M. SMITH,
S. ROSS.

MERRILL PLATT,
L. B. ABRAHAM.

[Seal.]
[Seal.]

Received

Received on the day of the date of this Indenture, the sum of eighty-five pounds, of lawful money of Canada, being the full consideration therein mentioned.

C. M. SMITH,
S. ROSS. }

MERRILL PLATT.

(See the annexed Memorial of this deed, with the affidavit to be registered.)

MEMORIAL WITHOUT DOWER.

Memorial without Dower.

A MEMORIAL to be registered, pursuant to the Statute in such case made and provided, of an Indenture of Bargain and Sale, made the ninth day of November, in the year of our Lord one thousand eight hundred and fifty-three, by and between Merrill Platt, of the Township of Dunham, County of Missisquoi, in the District of Montreal, and Province of Canada, yeoman, of the first part: and Lazier B. Abraham, of Ancaster, in the County of Wentworth, and Province aforesaid, sawyer, of the second part, WHEREBY: the said party of the first part, for and in consideration of the sum of eighty-five pounds, of lawful money of the Province of Canada, to him in hand paid, by the said party of the second part, the receipt whereof is acknowledged, DID GIVE, grant, bargain, sell, alien, assign, transfer, release, en-feoff, convey and confirm, unto the said party of the second part, his heirs and assigns, all that certain parcel or tract of land, situate, lying and being in the Township of Sombra, in the County of Lambton, of the said Province, containing by admeasurement one hundred acres of Land, be the same more or less, be the south half of Lot number Twenty, in the eighth concession of the said Township of Sombra. TO HAVE AND TO HOLD the said above-granted premises, with all the privileges and appurtenances thereof, to the said party of the second part, his heirs and assigns, to his or their use for-ever. Which said Indenture is witnessed by Charles M. Smith, of the Town of Ancaster, in the County of Wentworth, of said Province, cordwainer, and Samuel Ross of the said place, Esquire.

And this Memorial thereof, is hereby required to be registered by me, the said grantee therein named.

WITNESS my hand and seal, this ninth day of November, in the year of our Lord one thousand eight hundred and fifty-three.

Signed and Sealed, in the presence of

C. M. SMITH,
S. ROSS. }

L. B. ABRAHAM.

[Seal.]

MEMORIAL WITHOUT DOWER.

(The following is the Affidavit to be made in case the deed with Memorial is to be sent by Mail or otherwise, to be registered.)

County of Wentworth, } Charles M. Smith, of Ancaster, in the
To Wit: } said County of Wentworth, cordwainer,
in the within Memorial named, maketh Oath, and saith, that he
was present and did see the Indenture to which the said memorial
relates duly executed, signed, sealed and delivered, by the
therein named,

Merrill Platt,

And that he is a subscribing Witness to the execution of the said Indenture; that he, this deponent, also saw the said memorial duly signed and sealed by the therein named Lazier Bogert Abraham, for Registry thereof, Which said Memorial was attested by him, this deponent, and another subscribing witness, and that both said Instruments were executed at the Town of Ancaster, in the said County of Wentworth.

Sworn before me, at Ancaster, in the
said County of Wentworth, this
ninth day of November, A.D. 1853.

JOHN JONES,

A Commissioner for taking Affidavits
in the Queen's Bench, in and for the
said County of Wentworth.

CHARLES M. SMITH

DEED WITH DOWER.

INDENTURE

OF

BARGAIN AND SALE

BETWEEN

LAZIER B. ABRAHAM, *et ux.*,

Of Ancaster;

AND

WELLINGTON H. RICHMOND,

Of Toronto.

SOUTH HALF LOT No. 20, IN THE 8TH CONCESSION,

TOWNSHIP OF SOMBRA,

COUNTY OF LAMBTON.

Dated this 10th day of November, 1853.

Dee
T
of c
Laz
of V
par
part
of T
Wri
side
Can
and
pres
give
veye
barg
said
that
and
and
hund
of th
of th
the h
cours
nance
hered
or th
parce
and t
issues
intere
equity
the sa
part t
heredi
convey
of the
heirs
the thi
less, to
express
the sai
execut
to and
in man

DEED WITH DOWER.

Deed with Dower.

THIS INDENTURE, made the tenth day of November, in the year of our Lord, one thousand eight hundred and fifty-three, between Lazier Bogert Abraham of the Town of Ancaster, in the County of Wentworth, of the Province of Canada, sawyer, of the first part; Isabella Abraham, the wife of the said party of the first part, of the second part; and Wellington H. Richmond of the City of Toronto, of the said Province, publisher, of the third part, WITNESSETH: that the said party of the first part, for and in consideration of the sum of one hundred pounds, of lawful money of Canada, to him by the said party of the third part, in hand well and truly paid, at or before the sealing and delivery of these presents (the receipt whereof is hereby acknowledged,) HATH given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents doth give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said party of the third part, his heirs and assigns, All and Singular that certain Parcel or Tract of Land and Premises, situate, lying and being in the Township of Sombra, in the County of Lambton, and Province of Canada, containing by admeasurement one hundred acres of Land, be the same more or less, being composed of the south half of lot number Twenty in the eighth concession of the said Township of Sombra, TOGETHER with all and singular the houses, out-houses, buildings, woods, ways, waters, water-courses, easements, privileges, profits, hereditaments and appurtenances whatsoever, to the said parcel or tract of land, tenements, hereditaments and premises belonging, or in anywise appertaining, or therewith used and enjoyed, or known or taken as a part or parcel thereof, or as belonging thereto, or to any part thereof, and the reversion, reversions, remainder and remainders, rents, issues and profits thereof, And also all the estate, right, title, interest, trust, claim, property and demand, both at law and in equity, of him the said party of the first part, of, in, to, or out of the said lands, tenements, hereditaments and premises, and every part thereof: To HAVE AND TO HOLD the same lands, tenements and hereditaments, and all and singular other the premises hereby conveyed or mentioned or intended so to be, with their and every of their appurtenances, unto the said party of the third part, his heirs and assigns, to the sole and only use of the said party of the third part, his heirs and assigns for-ever: *Subject, nevertheless, to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.* And the said party of the first part, doth hereby for himself his heirs, executors and administrators, COVENANT, PROMISE AND AGREE, to and with the said party of the third part, his heirs and assigns, in manner following, that is to say: THAT he, the said party of the

the first part, at the time of the enrolling and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the Lands, Tenements, Hereditaments, and all and singular other the premises hereinbefore described, with their and every of their appurtenances, and of and in every part and parcel thereof, without any manner of reservation, limitation, provisoes or conditions, (other than as aforesaid, or any other matter or thing, to alter, charge, change, or incumber, or defeat the same. AND ALSO, he, the said party of the first part, now hath in him good right, full power, and lawful and absolute authority, to grant, sell, alien, convey and confirm the said lands, tenements, hereditaments and premises and every part and parcel thereof, with the appurtenances, unto the said party of the third part, his heirs, and assigns, in manner and form aforesaid. AND ALSO, THAT it shall and may be lawful to and for the said party of the third part, his heirs and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed, or intended so to be, with the appurtenances, without the let, suit, hindrance, interruption or denial of him, the said party of the first part, his heirs or assigns, or any other person or persons whomsoever, and that free and clear, and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever, due or payable upon or in respect of the said lands, tenements, hereditaments and premises, or any part thereof, and of, and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions and recognizances, and of and from all manner of other charges or incumbrances whatsoever. AND LASTLY, that he, the said party of the first part, his heirs and assigns, and all and every other person or persons whomsoever, having or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust, of, into, or out of the lands, tenements, hereditaments or premises hereby conveyed, as aforesaid, or intended so to be, with their appurtenances or any part thereof, by, from, or under, or in trust for him the said party of the first part, his heirs or assigns, shall and will from time to time, and at all times hereafter, at the proper costs and charges in the law of the said party of the third part his heirs and assigns make, do, suffer and execute, or cause or procure to be made done, suffered and executed, all and every such further and other reasonable act and acts, deed and deeds, devices, conveyances and assurances in the law, for the further, better, and more perfectly and absolutely conveying and assuring of the said lands, tenements, hereditaments and premises with the appurtenances, unto the said party of the third part, his heirs and assigns, as by the said party of the third part, his heirs and assigns, his,

or the
ably
Witn
above
the su
the sa
and r
doth
party
assign
whats
of her
might
said c
mentio
of acti
relatio

In V
hereun
year fir
Signed
ered,
W
C

DEED WITH DOWER.

or their counsel learned in the law, shall be lawfully and reasonably devised, advised or required. AND this Indenture also Witnesseth, that the said Isabella Abraham, the Wife of the above named party of the first part, for and in consideration of the sum of five shillings, of lawful money as aforesaid, to her by the said party of the third part now in hand paid, HATH remised and released, and for-ever relinquished, and by these presents doth remise, release, and for-ever relinquish unto him the said party of the third part, his heirs, executors, administrators and assigns, all and all manner of dower and right or title of Dower whatsoever, which she the said Isabella Abraham in the event of her surviving her said husband the said party of the first part, might or of right ought to have or claim in, to, and out of the said certain parcel or tract of land, and the premises above mentioned, and every part and parcel thereof, and all manner of action or actions, and writ or writs of Dower whatsoever in relation thereto.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands, and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered, in the presence of	}	L. B. ABRAHAM,	[Seal.]
WILLIAM DOUGALL,		ISABELLA ABRAHAM,	[Seal.]
CHARLES STANTON.		WELLINGTON H. RICHMOND.	[Seal.]

LEGAL FORMS AND LAW MANUAL.
MEMORIAL WITH DOWER.

MEMORIAL OF INDENTURE
OF
BARGAIN AND SALE

BETWEEN

LAZIER B. ABRAHAM, *et ux.*,

Of Ancaster ;

AND

WELLINGTON H. RICHMOND,

Of Toronto.

SOUTH HALF LOT No. 20, IN THE 8TH CONCESSION,

TOWNSHIP OF SOMBRA,

COUNTY OF LAMBTON.

Dated this 10th day of November, 1853.

Mem
A
case
made
thous
Boger
Went
ham,
part ;
of said
party
hundr
in ha
where
assign
said p
tain P
Town
of Can
land b
half o
Towns
granted
thereof
to his a
it is W
said pa
her in
mised, i
premise
executo
witness
Town
Memori
said Gr
WITN
the year
Signed
presen
W.
Cha

County
T
in the w

MEMORIAL WITH DOWER.

MEMORIAL WITH DOWER.

Memorial with Dower.

A MEMORIAL to be registered, pursuant to the Statute in such case made and provided, of an Indenture of Bargain and Sale, made the tenth day of November, in the year of our Lord one thousand eight hundred and fifty-three, by and between Lazier Bogert Abraham, of the Town of Ancaster, in the County of Wentworth, of the Province of Canada, sawyer, Isabella Abraham, the wife of the said party of the first part of the second part; and Wellington Harrison Richmond, of the city of Toronto, of said Province, publisher, of the third part, WHEREBY: the said party of the first part, for and in consideration of the sum of one hundred pounds, of lawful money of the Province of Canada, to him in hand paid by the said party of the third part, the receipt whereof is acknowledged, *Do give, grant, bargain, sell, alien, assign, transfer, release, enfeoff, convey, and confirm*, unto the said party of the third part, his heirs and assigns, all that certain Parcel or Tract of Land, situate, lying, and being in the Township of Sombra, in the County of Lambton, and Province of Canada, containing by admeasurement one hundred acres of land be the same more or less, being composed of the South half of lot number twenty, in the eighth concession of the said Township of Sombra. To HAVE AND TO HOLD the said above-granted premises, with all the privileges and appurtenances thereof, to the said party of the third part, his heirs and assigns, to his and their own use for-ever. AND by the same Indenture, it is Witnessed that the said Isabella Abraham, the wife of the said party of the first part, in consideration of five shillings, to her in hand paid by the said party of the third part, HATH remised, released, and for-ever relinquished her Dower in the said premises unto him the said party of the third part, his heirs, executors, administrators, and assigns; Which said Indenture is witnessed by William Dougall and Charles Stanton, of the Town of Ancaster, in the County of Wentworth. And this Memorial thereof, is hereby required to be registered by me, the said Grantee therein named.

WITNESS my hand and seal, this tenth day of November, in the year of our Lord one thousand eight hundred and fifty-three.

Signed and Sealed, in the presence of

W. DOUGALL,
CHARLES STANTON.

WELLINGTON H. RICHMOND. [*Seal*]

The Affidavit.

County of Wentworth, } William Dougall of Ancaster, in the
To wit: } said County of Wentworth, gentleman,
in the within Memorial named, maketh Oath and saith, that he
63 was

was present, and did see the Indenture to which the said memorial relates duly executed, signed, sealed and delivered, by the therein named

Lazier Bogert Abraham,

And that he is a subscribing witness to the execution of the said Indenture, that he, this deponent, also saw the said Memorial duly signed and sealed by the therein named Wellington Harrison Richmond, for Registry thereof. Which said memorial was attested by him, this deponent, and another subscribing witness, and that both said Instruments were executed at the Town of Ancaster, in the said County of Wentworth.

Sworn before me at Ancaster, in the said
County of Wentworth, this tenth day of
November, A. D. 1853.

JOHN JONES,

A Commissioner for taking affidavits in
the Queen's Bench, in and for the said
County of Wentworth.

WILLIAM DOUGALL.

DEED WITHOUT DOWER.

Deed without Dower.

THIS INDENTURE, made the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and fifty-three, in pursuance of the Act to facilitate the Conveyance of Real Property, between Charles Hamilton of the city of Toronto, in the County of York, and Province of Canada, merchant, of the first part; and William Henry, of the Town of Brantford, in the County of Brant, of said Province, gentleman, of the second part.

WITNESSETH: that in consideration of the sum of three hundred and twenty-seven pounds, of lawful money of Canada, now paid by the said party of the second part to the said party of the first part, the receipt whereof is hereby by me acknowledged, I, the said party of the first part, doth GRANT, bargain, sell, convey, and confirm unto the said party of the second part, his heirs and assigns forever, all and singular, that certain parcel or tract of land and premises, situate, lying, and being in the Township of London, in the County of Middlesex, of the said Province, containing, by admeasurement, two hundred acres of land, be the same more or less, being lot number —, in the fifteenth Concession of the said Township of London; TOGETHER with All and Singular the houses, out-houses, buildings, woods, ways, waters, water-courses, easements, privileges, profits, hereditaments, and appurtenances whatsoever, to the said parcel or tract of land, tenements, hereditaments and premises belonging, or in any wise appertaining, or therewith used and enjoyed, or known or taken as a part or parcel thereof, or as belonging thereto, or to any

part
rema
estate
both
of, in
premi
the sa
for hi
to the
sed in
party
second
the sa
said p
part sh
incum
ecute
site : A
under,
the sa
the fir
said p
second
In W
hereunt
the day
Signed,

Memorial

A ME
fourth d
eight hun
tate the
ton, of th
of Canad
Town of
gentlema
first part
and twen
hand paid
of the fir
bargain,

DEED WITHOUT DOWER—AND MEMORIAL.

part thereof, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: And also, all the estate, right, title, interest, use, trust, claim, property and demand both at law and in equity, of him the said party of the first part, of, in, to or out of, the said lands, tenements, hereditaments, and premises, and every part thereof: To HAVE AND TO HOLD, unto the said party of the second part, his heirs and assigns, to and for his and their sole and only use forever; *Subject nevertheless* to the reservations, limitations, provisoes and conditions, expressed in the original grant thereof from the Crown: THE said party of the first part, COVENANTS with the said party of the second part, that he has the right to convey the said lands to the said party of the second part, notwithstanding any act of the said party of the first part: AND that the said party of the second part shall have quiet possession of the said lands, free from all incumbrances: And that the said party of the first part will execute such further assurances of the said lands as may be requisite: And that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said party of the second part; And that the said party of the first part has done no act to incumber the said lands: And the said party of the first part, releases to the said party of the second part, all his claims upon the said lands.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, at Brantford, the day and year first above written.

Signed, Sealed and Delivered,

in presence of
OLIVER BROWN,
HENRY SMITH.

} CHARLES HAMILTON, [Seal.]
WILLIAM HENRY. [Seal.]

MEMORIAL WITHOUT DOWER.

Memorial without Dower.

A MEMORIAL to be registered, of an Indenture, made the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and fifty-three, in pursuance of the Act to facilitate the Conveyance of Real Property, between Charles Hamilton, of the city of Toronto, in the County of York, and Province of Canada, merchant, of the first part; and William Henry, of the Town of Brantford, in the County of Brant, of the said Province, gentleman, of the second part, WHEREBY: the said party of the first part for and in consideration of the sum of three hundred and twenty-seven pounds, lawful money of Canada, to him in hand paid by the said party of the second part, to the said party of the first part, the receipt whereof is acknowledged, DID GRANT, bargain, sell, convey and confirm, unto the said party of the

second part, his heirs and assigns, forever, All and Singular, That certain parcel or tract of land, and premises, situate, lying, and being in the Township of London, in the County of Middlesex, of the Province of Canada, containing by admeasurement two hundred acres of land, be the same more or less, being lot number in the fifteenth concession of the said township of London: To HAVE AND TO HOLD the said above granted premises, unto the said party of the second part, his heirs and assigns, to and for his and their sole and only use forever, Which said Indenture is witnessed by Oliver Brown of the Town of Brantford, in the County of Brant, merchant, and Henry Smith of the city of Toronto, in the County of York, of the said Province, iron-monger; and that both said Instruments were executed at the Town of Brantford, in said County of Brant, the day and year first above written.

And this Memorial thereof, is hereby required to be registered by me, the said grantee therein named.

WITNESS my hand and seal, the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and fifty-three.

Signed and Sealed, in
presence of
OLIVER BROWN,
HENRY SMITH.

} WILLIAM HENRY. [Seal.]

(Here follows the Affidavit Sworn to before a Commissioner. If to be sent away to be registered.)

DEED WITH DOWER.

Deed with Dower.

THIS INDENTURE, Tripartite, made the second day of January, in the year of our Lord one thousand eight hundred and fifty-four, in pursuance of the Act to facilitate the Conveyance of Real Property, between William Peel, of the City of Montreal, in the District of Montreal, and Province of Canada, gentleman, of the first part; Susan Cornelia Peel, of the same place, Wife of the said party of the first part, of the second part; and John Bolton, of the City of Kingston, in said Province, merchant, of the third part, WITNESSETH: That in consideration of the sum of two hundred and fifty-eight pounds, lawful money of Canada, now paid by the said party of the third part to the said party of the first part, the receipt whereof is hereby by him acknowledged, He the said party of the first part, doth grant, bargain, sell, convey and confirm, unto the said party of the third part, his heirs and assigns forever, All and Singular two certain parcels or tracts of land and premises, situate, lying, and being in the Township of , in the County of , in the District of , of the said Province, containing by admeasurement two hundred

DEED WITH DOWER—AND MEMORIAL.

hundred acres of land, be the same more or less, being composed of the west half of lot number Five, in the tenth concession, and the east half of lot number Five, in the eleventh concession of the said Township of ; TOGETHER with All and Singular, the houses, out-houses, buildings, woods, ways, waters, water-courses, easements, privileges, profits, hereditaments and appurtenances whatsoever, to the said parcels or tracts of land, tenements, hereditaments and premises, belonging, or in anywise appertaining, or therewith used and enjoyed, or known or taken as part or parcel thereof, or as belonging thereto, or to any part thereof, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; AND ALSO all the estate, right, title, interest, trust, claim, property and demand, both at law and in equity, of him the said party of the first part, of, in, to, or out of the said lands, tenements, hereditaments and premises, and every part thereof: TO HAVE AND TO HOLD, unto the said party of the third part, his heirs and assigns, to and for his and their sole and only use forever: *Subject, nevertheless*, to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown: THE said party of the first part COVENANTS with the said party of the third part, that he has the right to convey the said lands to the said party of the third part, notwithstanding any act of the said party of the first part; And that the said party of the third part shall have quiet possession of the said lands, free from all incumbrances: And that the said party of the first part will execute such further assurances of the said lands as may be requisite: And that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said party of the third part: And that the said party of the first part has done no act to incumber the said lands; And the said party of the first part releases to the said party of the third part, all his claims upon the said lands; And the said party of the second part, Wife of the said party of the first part, hereby bars her dower in the said lands, and premises by her becoming a party to this deed.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, at Montreal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

DAVID HEWSON,

ALEXANDER MULHOLLAND.

WILLIAM PEEL,

SUSAN C. PEEL,

JOHN BOLTON.

[Seal.]

[Seal.]

[Seal.]

MEMORIAL WITH DOWER.

Memorial with Dower.

A MEMORIAL to be registered, of an Indenture, Tripartite, made the second day of January, in the year of our Lord one thousand eight

eight hundred and fifty-four, in pursuance of the Act to facilitate the Conveyance of Real Property, between William Peel, of the City of Montreal, in the District of Montreal, and Province of Canada, gentleman, of the first part; Susan Cornelia Peel, of the same place, Wife of the said party of the first part, of the second part; and John Bolton, of the City of Kingston, of said Province, merchant, of the third part, WHEREBY: the said party of the first part, for and in consideration of the sum of two hundred and fifty-eight pounds, lawful money of Canada, to him in hand paid by the said party of the third part, the receipt whereof is acknowledged, DID GRANT, bargain, sell, convey and confirm, unto the said party of the third part, his heirs and assigns forever; All and Singular, those certain parcels or tracts of land and premises, situate, lying, and being in the Township of _____, in the County of _____, in the District of _____, of the Province of Canada, containing, by admeasurement, two hundred acres of land, be the same more or less, being composed of the west half of lot number Five in the tenth concession, and the east half of lot number Five in the eleventh concession, in the said Township of _____: To HAVE AND TO HOLD the said above granted premises, unto the said party of the third part, his heirs and assigns, to and for his and their sole and only use forever; And by the same Indenture it is witnessed, that the said party of the second part, Wife of the said party of the first part, has thereby barred her dower in the said lands; which said Indenture is witnessed by David Hewson, of the City of Montreal, merchant, and Alexander Mulholland, of the said City, in the District of Montreal, of the said Province, grocer, and that both said Instruments were executed at the City of Montreal, on the day and year first above written. And this Memorial thereof, is hereby required to be registered by me, the said grantee therein named.

WITNESS my hand and seal, the second day of January, in the year of our Lord one thousand eight hundred and fifty-four.

Signed and Sealed,

in presence of

DAVID HEWSON,

ALEX. MULHOLLAND.

JOHN BOLTON.

[Seal]

A SIMPLE DEED, WITH DOWER.

Deed with Dower.

THIS INDENTURE, Tripartite, made the seventeenth day of February, in the year of our Lord one thousand eight hundred and fifty-four, in pursuance of the Act to facilitate the Conveyance of Real Property, between Charles Ball, of the Town of Beauharnois, in the County of Beauharnois and District of Montreal, of the Province of Canada, merchant, of the first part; and William Hall, of the City of Montreal, of said Province, builder, of the

the s
part,
lawfu
of the
HATH
and c
conve
heirs
premi
Count
ureme
(Here
HAVE
the se
and be
tations
thereo
DO HER
COVEN
assigns
ed pre
I have
of the s
ministr
the sam
and ass
all pers
Indentu
said par
sum of
paid by
this Ind
by these
him the
assigns,
er whate
her survi
might or
certain p
every par
and writ
In Writ
hereunto
first abov
Signed, S
in p

A SIMPLE DEED, WITH DOWER.

the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of twenty-five pounds, lawful money of Canada, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, HATH given, granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents doth give, grant, bargain, sell, convey and confirm, unto the said party of the second part, his heirs and assigns, all that certain parcel or tract of land and premises, situate, lying and being in the Town of _____, in the County of _____, of the said Province, containing by admeasurement _____, bounded and described as follows, to wit: (Here describe the property conveyed, or intended so to be:) To HAVE AND TO HOLD the afore-granted premises to the said, party of the second part, his heirs and assigns, to his and their sole use and behoof, forever, *Subject nevertheless* to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown: And I, the said party of the first part DO HEREBY, for myself and my heirs, executors, and administrators, COVENANT with the said party of the second part, his heirs and assigns, that I am lawfully seized in fee simple of the afore-granted premises: That they are free from all incumbrances; that I have good right to sell and convey the same to the said party of the second part; And that I, and my heirs, executors, and administrators, will, and by these presents do, warrant and defend the same premises to the said party of the second part, his heirs and assigns, forever, against the lawful claims and demands of all persons, prior to the date of this conveyance: AND by this Indenture it is hereby Witnessed; that Susan Ball, the wife of the said party of the first part, HATH, for and in consideration of the sum of five shillings, lawful money of Canada, to her in hand paid by the said William Hall, one of the aforesaid parties to this Indenture, remised, released, and forever relinquished, and by these presents doth remise release, and forever relinquish, unto him the said William Hall, his heirs, executors, administrators or assigns, All and all manner of Dower and right or title of Dower whatsoever; which she, the said Susan Ball, in the event of her surviving her said husband, the said party of the first part, might or of right ought to have or claim into and out of the said certain parcel or tract of land and premises, above described, and every part and parcel thereof, and all manner of action or actions, and writ or writs of Dower whatsoever in relation thereto.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

JOHN FRENCH,
HORATIO WOOD,

69

} CHARLES BALL,
SUSAN BALL,
WM. HALL.

[Seal.]
[Seal.]
[Seal.]

A SIMPLE DEED, WITHOUT DOWER.

Deed without Dower.

THIS INDENTURE, made the twentieth day of February, in the year of our Lord one thousand eight hundred and fifty-four, in pursuance of the Act to facilitate the Conveyance of Real Property, between James Tobias, of the City of Hamilton, in the County of Wentworth, of the Province of Canada, merchant, of the first part; and Henry Niles, of the Town _____, of the said Province, contractor, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds, lawful money of Canada, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, HATH given, granted, bargained, sold, and by these presents doth give, grant, bargain and sell, alien, assign, transfer, convey and confirm, unto the said party of the second part, his heirs and assigns, All and Singular, that certain parcel or tract of land and premises, situate, lying and being in the Town of _____, in the County of _____, of the said Province, containing by admeasurement _____, bounded and described as follows, to wit: [Here describe the property:] TOGETHER with all and singular the houses, out-houses, buildings, woods, ways, waters, water-courses, easements, privileges, profits, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining; and the reversion and reversions, remainder and remainders, rents, issues and profits, thereof; and also all the estate, right, title, interest, use, claim, or demand whatsoever; of him, the said party of the first part, either in law or equity, of, in and to, the above bargained premises, and every part and parcel thereof: TO HAVE AND TO HOLD the afore-granted premises, to the said party of the second part, his heirs and assigns, to his and their sole use and behoof, forever; *Subject nevertheless* to the reservations, limitations, provisos and conditions, expressed in the original grant thereof, from the CROWN: The said party of the first part, COVENANTS with the said party of the second part, that he has the right to convey the said lands and premises to the said party of the second part; notwithstanding any act of the said party of the first part: AND that the said party of the second part shall have quiet possession of the said lands and premises, free from all incumbrances: And the said party of the first part will execute such further assurances of the said lands and premises as may be requisite, And that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said party of the second part: And that the said party of the first part has done no act to incumber the said lands or premises: And the said party of the first part releases to the said party of the second part all his claims upon the said lands and premises.

In
unto
abov
Sign

Deed
TH
year
suanc
betwe
of the
of the
part,
in com
Canad
the rec
sold, a
party
All an
situate
ship of
scribed
, s
by sever
framed
on the
erty of
the late
esquire
ises, To
purtena
and the
rents, is
title, in
party of
above b
free fro
to the s
er: Sub
the Crow
quiet pos
IN W

DEED WITHOUT DOWER, (SHORT FORM.)

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed Sealed and Delivered,	}	JAMES TOBIAS,	[Seal.]		
in presence of				HENRY NILES.	[Seal.]
WILLIAM JORDAN,					
JAMES THOMPSON.					

DEED WITHOUT DOWER, (Short Form.)

Deed without Dower,

THIS INDENTURE, made the _____, day of _____, in the year of our Lord one thousand eight hundred and _____, in pursuance of the Act to facilitate the Conveyance of Real Property, between James Tobias, of the _____, in the County of _____, of the Province of Canada, gentleman, of the first part; Joel West, of the City of _____, of the said Province, grocer, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds, lawful money of Canada, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, hath bargained and sold, and by these presents doth bargain and sell, unto the said party of the second part, and to his heirs and assigns, forever; All and singular, that certain parcel or lot of land and premises situate, lying and being in the Village of Brampton, of the Township of _____, in the County of _____, of the said Province, described as follows: It being lot number _____ on the south side of _____ street containing by admeasurement, forty-six feet frontage by seventy feet in depth with a two-story Brick house, and a framed shed and out-offices thereon erected, bounded as follows: on the front by the aforesaid street, on the east side by the property of _____, on the south end by the property of the heirs of the late _____, and on the west side by the property of _____, esquire: To HAVE AND TO HOLD the aforesaid lot of land and premises, Together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining; and the reversion and reversions, remainder and remainders, rents, issues and profits, thereof; and also all the estate, right, title, interest, use, claim, or demand whatsoever, of him the said party of the first part, either in law or equity, of, in and to, the above bargained premises, and every part and parcel thereof, free from all incumbrances; up to the date of his conveyance, to the said party of the second part, his heirs and assigns forever: *Subject to the reservations* in the original grant thereof from the Crown: And the said party of the second part shall have quiet possession of the aforesaid land and premises.

IN WITNESS WHEREOF, the said parties to these presents have hereunto

hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,	}	JAMES TOBIAS,	[Seal.]
in presence of		JOEL WEST.	[Seal.]
HENRY JONES,			
PETER HENDERSON.			

FULL COVENANT DEED, (*Short Form.*)

Without Dower.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , in pursuance of the Act to facilitate the Conveyance of Real Property, between Jacob Jones, of the City of Montreal, in the District of Montreal, in the Province of Canada, trader, of the first part; and Daniel West, of the Village of , in the County of and District of , of said Province, sawyer, of the second part, WITNESSETH: That the said party of the first part, in consideration of the sum of pounds shillings, lawful money of Canada, to him duly paid, Hath sold, and by these presents doth grant and convey, to the said party of the second part, and his heirs, executors, administrators and assigns, forever; all that certain (*here describe the premises;*) Together with the appurtenances, and all the estate, right, title and interest, of the said party of the first part therein: And the said party of the first part, for himself and his heirs, executors and administrators, doth hereby Covenant and Agree, that at the delivery hereof he is the lawful owner of the premises above granted, and seized of a good and indefeasible estate of inheritance therein, clear of all incumbrances whatever, of every name or nature: and that he will warrant and defend the above granted premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, forever; (*if for land here insert,*) Subject nevertheless, to the reservations, limitations, provisos and conditions, expressed in the original grant thereof from the Crown.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,	}	JACOB JONES,	[Seal.]
in presence of		DANIEL WEST.	[Seal.]
EDWARD F. SMALL,			
WILLIAM WALKER.			

DEED OF LANDS EXCHANGED.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between John Snaith, of the Township of , in the County of , and , and

DEED OF LANDS EXCHANGED—DEED OF LAND, ETC.

and Province of Canada, yeoman, of the first part; and Oliver North, of the City of _____, in the County of _____, of said Province, cabinet-maker, of the second part, WITNESSETH: That the said party of the first part hath given and granted, and by these presents doth give and grant, unto the said party of the second part, his heirs, executors, administrators and assigns, all that certain (*here description;*) with all and every of the appurtenances, in exchange of and for the lands hereinafter mentioned of the said party of the second part: To HAVE AND TO HOLD the said premises, with the appurtenances, to the said party of the second part, his heirs, executors, administrators and assigns, forever, free and unincumbered, of and from all former and other grants, titles, charges, estates, judgments, taxes, assignments and incumbrances, of every nature or kind whatsoever, excepting the provisos and conditions expressed in the original grant thereof from the Crown: AND the said party of the second part hath likewise, on his part, given and granted and by these presents doth give and grant unto the said party of the first part, his heirs, executors, administrators and assigns, all that certain (*here description;*) with all and every of the appurtenances, in exchange of and for the premises first above described: To HAVE AND TO HOLD the above granted premises, with the appurtenances, to the said party of the first part, his heirs, executors, administrators and assigns, forever, free and unincumbered, of and from all former and other grants, titles, charges, estates, judgments, taxes, assignments and incumbrances, of every nature or kind whatsoever, excepting the provisos and conditions expressed in the original grant thereof from the Crown.

IN WITNESS WHEREOF, the said parties to these presents, have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

EDWARD BADGER,

SAMUEL HOLMAN.

JOHN SNAITH,

OLIVER NORTH.

[Seal]

[Seal]

(The above to be in duplicate, a Copy for each party.)

DEED OF LAND, SUBJECT TO A MORTGAGE.

THIS INDENTURE, made the _____ day of _____, in the year _____ of our Lord one thousand eight hundred and _____, in pursuance of the Act to facilitate the Conveyance of Real Property, between Ira Boles, of the Village of _____, in the County of _____, and Province of Canada, law-student, of the first part; and Hiram Bednell, of the Town of _____, in the County of _____, of said Province, merchant, of the second part, WITNESSETH: That the said party of the first part, for and _____ in _____

in consideration of the sum of _____ pounds, lawful money of Canada, to him in hand well and truly paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, Hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey and confirm, unto the said party of the second part, and to his heirs and assigns, forever, all that certain (*here give full description*;) TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: And also, all the estate, right, title, interest, (*insert here if necessary*, Dower and right of Dower:) property, possession, claim and demand, whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances: Subject, however, to the payments, conditions and agreements specified and contained in a certain Indenture of Mortgage, executed by the said party of the first part, to Charles Williams, on the _____ day of _____, A. D., 18____, at _____ o'clock, A. M.; and which said mortgage was given for the purpose of securing the payment of the sum of _____ pounds, at the time and in the manner therein specified, and upon which there is now due and payable, [or there is yet to become due and payable, on the _____ day of _____, in the year eighteen hundred and _____:] To HAVE AND TO HOLD all and singular, the above mentioned and described premises, Together with the appurtenances, unto the said party of the second part his heirs, executors, administrators and assigns, forever, (*if for land insert*; Subject, nevertheless, to the limitations, provisos and conditions expressed in the original grant thereof from the Crown:) And the said party of the first part for himself, his heirs and assigns, will, and does hereby warrant and defend the said premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, forever; against all lawful claims against the said party of the first part, his heirs, and against all and every person whomsoever, lawfully claiming or to claim the same, shall and will warrant, and defend the same forever.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
EDWARD FOLEY,
SAMUEL NILES.

IRRA BOLES, [Seal.]
HIRAM BEDNELL. [Seal.]

DEED OF MORTGAGED PREMISES.

DEED OF MORTGAGED PREMISES.

ON FORECLOSURE, AND SALE.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between John Sandham, of the City and District of Montreal, in the Province of Canada, bookseller, of the first part; and Lewis Davis of the said City and District aforesaid, merchant of the second part, WHEREAS: Calvin Jones, of the Township of Dunham, in the County of Missisquoi, in the District of Montreal, by a certain Indenture of mortgage, bearing date the day of , one thousand eight hundred and , for and in consideration of the sum of pounds, lawful money of Canada, did bargain, sell and convey, unto John Sandham, his heirs, executors, administrators and assigns forever, All that certain piece or parcel of land, hereinafter particularly described, with the appurtenances, SUBJECT to a proviso in the said Indenture of mortgage contained, that the same should be void on the payment by the said Calvin Jones, his heirs, executors, administrators, or assigns, of the sum of pounds lawful money of Canada, in the manner particularly specified in the condition of a certain bond or note, bearing even date with the said Indenture of mortgage: With a special power in the said Indenture of mortgage contained, authorizing the said John Sandham, his heirs, executors, administrators, or assigns, if default should be made in the payment of the said sum of money mentioned in the condition of the said bond or note, with the interest, or of any part thereof, to sell and dispose of the mortgaged premises, or any part thereof, at public Auction: and to make and deliver to the purchaser, or purchasers, thereof; a good and sufficient Deed, or Deeds, of conveyance in the law, for the same, in fee simple: And, whereas, the said Indenture of mortgage has been duly recorded according to law, as by the said Indenture of mortgage, and the record thereof, and of the power therein contained, reference being thereunto had, may more fully and at large appear: AND WHEREAS, default having been made in the payment of the money intended to be secured by the said Indenture of mortgage, the mortgaged premises hereinafter particularly described, were, on the day of , one thousand eight hundred and , sold at public auction, to the said party of the second part, for the sum of ninety-two pounds, being the highest sum bid for the same, public notice having been given of such sale, by advertisement, inserted and published for weeks, twice in each week, successively, in a newspaper, entitled the , printed in the village of , in the County in which the the mortgaged premises are situate, also a copy of said advertisement was, for weeks prior to the time therein specified for such sale, duly affixed on the outside door of the Court House in the village of , being the building in which the County Courts are held; and the said party of the

the first part, having caused a copy of said printed notice to be duly served on all persons having any claim upon the said premises; THIS INDENTURE further WITNESSETH: That the party of the first part, for and in consideration of the sum of ninety-two pounds, bid as aforesaid, to him in hand well and truly paid in lawful money of Canada, by the said party of the second part, at the time of the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, Hath granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, release, convey and confirm, unto the said party of the second part, his heirs and assigns forever, all that certain piece or parcel (here give description :) TOGETHER with all and singular, the tenements, hereditaments and appurtenances, thereunto belonging, or in anywise appertaining, to the said described premises conveyed, in and by the said Indenture of Mortgage; and also all the estate, right, title, interest, property, claim and demand, whatsoever; both in law and equity, of the said Calvin Jones, as well as of the said party of the first part, of, in and to, the above described premises, with the appurtenances, as fully, to all intents and purposes, as the said party of the first part hath power and authority to grant and sell the same, by virtue of the said Indenture of mortgage, and of the statute in such case made and provided: TO HAVE AND TO HOLD the said above granted and described premises, with their and every of their appurtenances, unto the said party of the second part, his heirs, executors, administrators and assigns, to the sole and only proper use, benefit and behoof, of the said party of the second part, his heirs, executors, administrators and assigns, forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
ALBERT H. BROWN,
HENRY HOOKER.

JOHN SANDHAM. (Seal.)

DEED FROM A CORPORATION.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between the (here the name of the Corporation,) of the Town of , in the County of , and Province of Canada, of the first part; and James Harrison, of the Village of , in the County of , of said Province, contractor, of the second part, WITNESSETH: That the said (here the name of the Corporation) of the first part, for and in consideration of the sum of pounds, lawful money of Canada, to the said Corporation, well and truly paid by the said party of the second part, at or before the ensealing and delivery

liver
ledge
conv
sell, a
of the
assign
TOGE
and a
ing, a
rents,
title, i
ever;
first p
part a
TO HON
with t
his hei
own p
Corpor
peacea
heirs, c
poratio
soever,
warrant
to the p
In W
hereunt
first ab
Signed,
in

THIS I
DEN of t
street in
ince of C
Lewis D
(Trustee
pounds, l
be,] in ha
the recei
vey and
the Chur

DEED FROM A CORPORATION—DEED OF A PEW.

livery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey and confirm, unto the said party of the second part, and to his heirs, executors, administrators and assigns, forever, all that certain (*description of the property*):—TOGETHER with all and singular the tenements, hereditaments and appurtenances, thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: And also, all the estate, right, title, interest, property, possession, claim and demand, whatsoever; as well in law as in equity, of the said Corporation of the first part, of, in, or to, the above described premises, and every part and parcel thereof, with the appurtenances: TO HAVE AND TO HOLD the above granted, bargained, and described premises, with the appurtenances, unto the said party of the second part, his heirs, executors, administrators and assigns, to his and their own proper use and benefit, forever: And the said (*here name of Corporation*); will warrant the said premises in the quiet and peaceable possession of the said party of the second part, his heirs, executors, administrators and assigns against the said Corporation, parties of the first part, and all and every person whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend the said premises to the party aforesaid.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,	}	CHARLES HALL,	Corporate
in presence of		Mayor.	[Seal.]
PETER HOLDEN, Jr		President or Manager,	
LEWIS RONALD.		(as the case may be.)	
		JAMES HARRISON,	[Seal.]

DEED OF A PEW.

THIS INDENTURE, WITNESSETH: That *I, Henry Smith, the WARDEN of the Church of _____, situate on the south side of _____ street in the Village of _____, in the County of _____, and Province of Canada,† (*or if executed by Trustees say,**) we, John Elliot, Lewis Davis, Hiram Jones, Peter Young and Horace Price; (Trustees as above,)† For and in consideration of the sum of _____ pounds, lawful money of Canada, to me [*or to us, as the case may be,*] in hand well and truly paid, by William Hall, of the _____ of _____ in the County of _____, of the said Province, merchant, the receipt whereof is hereby acknowledged; Do hereby sell, convey and confirm, unto the said William Hall, a certain pew, in the Church of _____ being number _____, situate in the said _____ Church

Church on street in the Village of , and Province aforesaid : To HAVE AND TO HOLD the same, unto the said William Hall, his heirs, executors, administrators and assigns, forever ; Subject to all liabilities and incumbrances as are now legally existing, and to such taxes and assessments as may from time to time be legally laid thereon ; Provided, however, that there shall be no alteration made in the said pew, nor shall the same be transferred, or sold, by deed of sale, or a mortgage given of the said pew, without the written consent of the Warden, [or Trustees, *as the case may be,*] of said (*here name of Church or Society*), for the time being ; And further, if, at any time, there shall be owing from said pew, a sum equal to five year's taxes, then this conveyance shall be wholly void, all the right, title and interest of the said William Hall, his heirs, executors, administrators and assigns, in and to the said pew, shall revert back to the said Church, (*or Society.*)

IN WITNESS WHEREOF, I, [or we] have hereunto set my [or our hands,] hand and affixed the Corporate, [or legal] seal of said Church, [or Society,] this day of , in the year of our Lord one thousand eight hundred and .

Signed, Sealed and Delivered,

in presence of

HENRY BALL,

CHARLES WEST.

HENRY SMITH,

Warden of the

Church of .

[Seal.]

(or)

*Names of the Trustees,
of the Church of .*

Trustees
of &c.

[Seal.]

DEED FROM A GUARDIAN.

TO ALL PERSONS TO WHOM THESE PRESENTS SHALL COME : KNOW YE That I, Horace Bond, of the Town of , in the County of and Province of Canada, grocer, have been appointed Guardian of Susan Smith and Oliver Smith, minors, and Children of William Smith, late of the said , deceased sends Greeting :— WHEREAS, by an order of the Court, holden at , within and for the County of , in said Province, on the day of , in the year of our Lord one thousand eight hundred and , the said Horace Bond, in his capacity of Guardian, as aforesaid was empowered and licensed to make sale of the whole of the said minors' interest, being one undivided sixth part to each minor, in the Real Estate hereinafter described ; And whereas, the said Horace Bond having given the Bond, and taken the oath by law required, before fixing on the time and place of sale, and also given public notice of the said sale, by causing a notice to be inserted and printed weeks, successively, in the newspaper called , printed in the Town of , and did on the day of , in the year of our Lord one thousand sand

DEED FROM A GUARDIAN—EXECUTORS' DEED.

said eight hundred and , cause the said minors' interest to be exposed for sale at public auction, pursuant to the said notice, on the premises, and the same was then and there struck down to Charles Thompson, of the Township of , in the County of and Province aforesaid, yeoman, for the sum of pounds, he being the highest bidder therefor: Now, know ye, That I, the said Horace Bond, in my capacity of Guardian, as aforesaid, by virtue of the power aforesaid, and in consideration of the sum of pounds, lawful money of Canada, to me paid by Charles Thompson, aforesaid, the receipt whereof I, hereby acknowledge; And do hereby grant, bargain, sell, alien, remise, release, convey and confirm, unto the said Charles Thompson, his heirs, executors, administrators and assigns, two undivided sixth parts of a certain tract or parcel of land, situate lying and being in , bounded and described as follows, viz:— [description:] being the shares of the said minors therein, with all the privileges and appurtenances thereunto belonging: To HAVE AND TO HOLD the above granted premises, to him the said Charles Thompson, his heirs, executors, administrators and assigns, forever; And I, the said Horace Bond, for myself, my heirs, executors, administrators and assigns, do covenant with the said Charles Thompson, his heirs, executors, administrators and assigns, that in making the said sale, I have in all things observed the rules and directions of the law; and that I and my heirs, will warrant and defend the above granted premises, to the said Charles Thompson, his heirs, and assigns, against the lawful claims and demands of the said minors and their heirs and all persons claiming the same by, through, or under them, or either of them.

IN WITNESS WHEREOF, I, the said Horace Bond, have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty.

Signed, Sealed and Delivered,

in presence of
BENJAMIN WEST,
CHARLES SILVER.

HORACE BOND, [Seal.]

EXECUTORS' DEED.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Samuel King, of the City of , in the County of and Province of Canada, carpenter and joiner, and Duncan Smith, of the said City and Province aforesaid, gentleman, Executors of the last Will and Testament of Nicholas Deming, deceased, late of the City of , in the County of and Province of Canada, of the first part, and Thomas Brown, of the Township of , in the County of , of said Province,

Province, yeoman, of the second part, WITNESSETH: That the said parties of the first part, by virtue of the power and authority to them given, in and by the said last will and testament, and for and in consideration of the sum of _____ pounds, lawful money of Canada, to them in hand well and truly paid, at or before the en sealing and delivery of these presents, by the said party of the second part. the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, release, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, forever: All and singular that certain (*here describe the property conveyed*): TOGETHER with all and Singular, the hereditaments, and appurtenances, to the same belonging, or in anywise appertaining; and the reversion and reversions, remainder and remainders, rents, issues and profits thereof: And also, all the estate, right, title, interest, claim and demand whatsoever, both in law and equity, which the said testator had in his life time, and at the time of his decease, and which the said parties of the first part, or either of them, have or hath by virtue of the said last will and testament, or otherwise, of, in and to, the same, and every part and parcel thereof, with the appurtenances: To HAVE AND TO HOLD the aforegranted premises, to him, the said Thomas Brown, his heirs, executors, administrators and assigns, to his and their use and behoof, forever, (*If for land;*) Subject nevertheless to the reservations in the original grant thereof from the Crown: And we the said Executors, do covenant with the said party of the second part, his heirs and assigns, that we are lawfully the executors of the last will and testament of the said Nicholas Deming, and that we have not made or suffered any incumbrance on the hereby granted premises, since we were appointed executors of the said Nicholas Deming; and that we have in all respects acted, in making this conveyance, in pursuance of the authority granted to us, in and by the said last will and testament of the aforesaid testator.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
DAVID JONES,
OLIVER DIMOND.

} SAMUEL KING, [Seal.]
DUNCAN SMITH, [Seal.]
As Executors to the estate of
the late NICHOLAS DEMING.

DEED BY AN ADMINISTRATOR.

Of the Estate of a person dying without a Will

TO ALL TO WHOM THESE PRESENTS SHALL COME: I, William Brown, of the Town of _____, in the County of _____, and _____ Province

Provin
estate
in the
send G
(or as

liam B
sell an
the sai
the sai
sale, by

printed
perty is
Court;
in such
place of
to the a
the real
to Charl

lawful m
Now, K
the pow
sideratio
Canada,
whereof
convey a
executor
full descr
mises, to
istrators
And I, th
and adm
Henderso
in pursua
deed of c

IN WIT
unto set
in the ya
Signed, S
in
JAC
HE

DEED BY AN ADMINISTRATOR.

Province of Canada, merchant, Administrator of the goods and estate which were of Amos Baring, late of the Village of _____, in the County of _____, of said Province, deceased, intestate, send Greeting:—WHEREAS, by an Order of the Court of Chancery, (or as the case may be) held at _____, within the County of _____, on the _____ day of _____ last past, I the said William Brown, was appointed Administrator, and empowered to sell and pass good sufficient Deeds, to convey the real estate of the said Amos Baring, hereinafter described; and whereas, I, the said William Brown, have given public notice of the intended sale, by causing a notice thereof to be printed and inserted _____ weeks, successively, in a newspaper, entitled the _____, printed in the Town of _____, in the County in which the property is situate, agreeably to the order and direction of said Court; and having given the bond and taken the oath, by law in such cases required, previous to fixing upon the time and place of sale, Did, on the _____ day of _____ instant, pursuant to the appointment and notice aforesaid, sell by public auction, the real estate of the said Amos Baring, hereinafter described; to Charles Henderson, of the City of _____, in the County of _____, of said Province, grocer, for the sum of _____ pounds, lawful money of Canada, he being the highest bidder therefor: Now, Know ye, That I, the said William Brown, by virtue of the power and authority vested in me, as aforesaid, and in consideration of the aforesaid sum of _____ pounds, lawful money of Canada, to me paid by the said Charles Henderson, the receipt whereof is hereby acknowledged, Do hereby grant, bargain, sell convey and confirm, unto the said Charles Henderson, his heirs, executors, administrators and assigns, all that certain (*here give full description:*) To HAVE AND TO HOLD the above granted premises, to the said Charles Henderson, his heirs, executors, administrators and assigns, to his and their use and behoof, forever: And I, the said William Brown, for myself, my heirs, executors and administrators, do hereby covenant with the said Charles Henderson, his heirs, executors, administrators and assigns, that in pursuance of the appointment aforesaid, I have executed this deed of conveyance according to law.

IN WITNESS WHEREOF, I, the said William Brown, have hereunto set my hand and affixed my seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and fifty-_____.

Signed, Sealed and Delivered,

in presence of

JACOB FRENCH,

HENRY HAGER.

WILLIAM BROWN. [Seal.]

DEED TO COMMISSIONER'S FOR EXECUTING THE
OFFICE OF LORD HIGH ADMIRAL.

I, WILLIAM SMITH, of the City of Hamilton, in the County of Wentworth, and Province of Canada, for and in consideration of the sum of _____, to me or into the Bank of _____ (or as the case may be,) paid by the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, do hereby convey to the said Commissioners all that certain (*here describing the lands to be conveyed;*) TOGETHER with all ways, rights and appurtenances thereunto belonging, and all such estate, right, title, and interest in and to the same and every part thereof, as I am or shall become seized or possessed of, or am by an Act of the Parliament of this Province, passed in the Fourth Session of the third Provincial Parliament of Canada, held in the fourteenth and fifteenth years of the Reign of Her Majesty Queen Victoria, chapter sixty-seven, and intituled, An Act for vesting in the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, the estates and property therein described, and for granting certain powers to the said Commissioners, and for other purposes therein mentioned, capacitated or empowered to convey: AND TO HOLD the said lands to the said Commissioners in trust, and according to the intent and meaning of the said Act.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this _____ day of _____ in the year of Our Lord one thousand eight hundred and _____

Signed, Sealed and Delivered,
in presence of _____

WILLIAM SMITH. [Seal.]

DEED OF GIFT OF PERSONAL PROPERTY.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Johnson, of the Town of _____, in the County of _____, and Province of Canada, printer, for and in consideration of the natural love and affection which I bear unto my daughter Lucy Johnson, and for her better preferment in marriage, and the increase of her portion, and also in consideration of the sum of one pound, to me in hand paid by my said daughter Lucy Johnson, at or before the sealing and delivery hereof, the receipt whereof I do hereby acknowledge, Have given, granted, bargained, and sold, and by these presents do give, grant, bargain, and sell, unto my said daughter, Lucy Johnson, ALL the goods and chattels following, to Wit: [*or refer to the goods and chattels mentioned in the schedule hereunto annexed:*] TO HAVE AND TO HOLD all and singular the premises, hereby given and granted unto the said Lucy Johnson my daughter,

DEED OF GIFT OF LAND—RELEASE OF DOWER TO AN HEIR.

er, her heirs, executors and administrators, forever, as her and their own proper goods and chattels.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of

GUSTAVUS WOOD,
OLIVER HALL.

CHARLES JOHNSON. [Seal.]

DEED OF GIFT OF LAND.

THIS INDENTURE, made the eleventh day of May, in the year of our Lord one thousand eight hundred and fifty-four, between Miles Knowlton, of the Town of , in the County of , and District of , of the Province of Canada, yeoman, of the first part; and Alexander Knowlton of the said Town, and Province aforesaid, carriage-maker, son of the said party of the first part, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the natural love and affection which he hath for and unto his son, the said party of the second part, He the said party of the first part HATH given, granted, aliened, released and confirmed and by these presents doth give and bequeath, unto his son the said party of the second part, his heirs, executors, administrators and assigns, forever, All and Singular, that certain parcel or tract of land, situate, lying, and being in the Township of , in the County of , and District of , of the said Province: containing two hundred acres of land bounded [*here give description;*] Together with all and singular, the hereditaments and appurtenances, thereunto belonging: To HAVE AND TO HOLD the same, unto the said party of the second part his heirs, executors, administrators and assigns, to their own use and behoof, forever.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

CHARLES SNAITH,
WILLIAM BROOKS.

MILES KNOWLTON, [Seal.]
ALEX. KNOWLTON. [Seal.]

RELEASE OF DOWER TO AN HEIR.

KNOW ALL MEN, BY THESE PRESENTS: That I, Caroline Sharpson, of the Town of , in the County of , of the Province of Canada, Widow of John Sharpson, late of the Town of , in the County and Province aforesaid, Hereby release
83
my

my Dower, and all right, title, interest and claim of dower, unto my beloved son hereinafter named, for and in consideration of the sum of pounds, lawful money of Canada, to me paid by my Son Charles Sharpson, of the City of in the County of , of the said Province, attorney, together with the love and affection which I have to my said son, HAVE GRANTED, remised, released, and forever quit-claimed, and by these presents do grant, remise, release and quit-claim, unto the said Charles Sharpson, his heirs, executors, administrators and assigns, forever: All my Dower, and right, or title of dower, and all other right, title, interest, property, claim and demand, whatsoever, in law and in equity, of me, the said Caroline Sharpson, of, in and to, (*here give full description*;) So that neither I, the said Caroline Sharpson, my heirs, executors, administrators, nor any other person or persons, for me, them or any of them, shall have claim, challenge, or demand, or pretend to have claim, challenge or demand, any dower or any other right, title, claim, or demand, of, in, or to, the premises, hereinbefore described: And further, the said Dower is hereby utterly barred and excluded forever, by these presents.

In WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of
OVID THOMPSON,
LEWIS DAVIS.

} CAROLINE SHARPSON. [*Seal.*]

DEED OF PARTITION.

THIS INDENTURE, made the eleventh day of May, in the year of our Lord one thousand eight hundred and fifty-four, between Henry Dill, of the Town of London, in the County of Middlesex, of the Province of Canada, builder, of the first part; Charles Jones, of the said Town and County aforesaid, of the said Province, trader, of the second part; and Samuel Niles, of the Village of St. Thomas, in the County of of the said Province, merchant, of the third part, WITNESSETH: That the said parties to these presents have agreed to make partition of a certain tract of land situate, lying, and being, in the Town of , in the County of , of said Province, bounded and containing acres, owned by them as tenants in common, in manner following: The said party of the first part, shall hold in severalty, acres, bounded , The said party of the second part, shall hold in severalty acres, bounded , and The said party of the third part, shall hold in severalty acres, bounded , And to each of said parties, his heirs, executors, administrators and assigns, the other two parties do grant and re-

lease t
heirs,
ever;
to him
the law
them.

In V
hereun
first ab
Signed,

Dower I

Know
of the T
Province
Stone R
second p
pounds t
paid by
of
receipt w
and quit-
quit-claim
tors, adn
right, titl
in equity
to, all tha
full descri
all and sin
belonging
the origin
said partie
said lands
heirs, exec
against th
either of u

In Wit
hereunto s
April, in th
fifty-four.
Signed, Se
in pre
Lew
JAM

QUIT-CLAIM DEED.

lease the tract assigned to him as aforesaid, to hold to him, his heirs, executors, administrators, and assigns in severalty, forever; and do hereby covenant to warrant and defend the same, to him, his heirs, executors, administrators and assigns, against the lawful claims of all persons, claiming under them or either of them.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered, }

in presence of

HENRY T. JONES,
CHARLES SMITH.

HENRY DILL,
CHARLES JONES,
SAMUEL NILES.

[Seal.]
[Seal.]
[Seal.]

QUIT-CLAIM DEED, (*Short Form.*) (No. 1.)

Dower Released.

KNOW ALL MEN BY THESE PRESENTS: That I, Nelson Richards, of the Township of _____, in the County of _____, and Province of Canada, iron-founder, of the first part; and Eliza Stone Richards, the wife of the said party of the first part, of the second part; for and in consideration of the sum of eighty-seven pounds ten shillings, lawful money of Canada, to us in hand, paid by Thomas Howland, of the City of _____, in the County of _____, of said Province, bookseller, of the third part, the receipt whereof we do hereby acknowledge, Have bargained, sold and quit-claimed, and by these presents we do bargain, sell and quit-claim unto the said party of the third part, his heirs, executors, administrators and assigns, forever, all our and each of our right, title, interest, estate, claim and demand, both at law and in equity, and as well in possession as in expectancy, of, in and to, all that certain piece or parcel of land, situate in (*here give full description:*) To HAVE AND TO HOLD the aforesaid lands, with all and singular the hereditaments and appurtenances thereunto belonging forever; Subject nevertheless, to the reservations in the original grant thereof from the Crown: And further, we the said parties of the first and second part, will warrant the aforesaid lands and premises, to the said party of the third part, his heirs, executors, administrators and assigns, and behoof, forever, against the lawful claims of all persons claiming under us or either of us.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and affixed their seals, this sixth day of April, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered, }

in presence of

LEWIS DAVIS,
JAMES LAWRENCE.

NELSON RICHARDS,
ELIZA S. RICHARDS,
THOMAS HOWLAND.

[Seal.]
[Seal.]
[Seal.]

QUIT-CLAIM DEED, (No. 2.)

KNOW ALL MEN BY THESE PRESENTS: That on this fourth day of May, in the year of our Lord one thousand eight hundred and fifty-four, that I, Charles Silver, of the Village of Dunham, in the County of Missisquoi, in the District of Montreal, of the Province of Canada, merchant, of the first part; and James Harrison, of the City of Quebec, of the said Province, grocer, of the second part, WHEREAS: The said party of the first part, Hath, for and in consideration of the sum of two hundred and ten pounds, lawful money of Canada, to me, by the said party of the second part, in hand well and truly paid at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, AND have quit-claimed, given, granted, bargained, sold, aliened, released, en-feoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, release, en-feeoff, convey and confirm unto the said party of the second part, his heirs, executors, administrators and assigns, and forever quit-claim, unto the said party of the second part, his heirs, executors, administrators and assigns to his and their sole use forever; All and Singular that certain (*here describe the premises to be conveyed;*) To HAVE AND TO HOLD the said premises, with all and singular the hereditaments and appurtenances thereunto belonging, unto the said party of the second part, his heirs, executors, administrators and assigns, forever: And I the said party of the first part, do hereby covenant with the said party of the second part, that I will warrant the aforesaid premises, to the said party of the second part, his heirs, executors, administrators and assigns, and behoof, forever; against the lawful claims of all persons claiming under me.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of
OLIVER H. JONES,
EBEN TOWN.

CHARLES SILVER. [Seal.]

QUIT-CLAIM DEED, (No. 3.)

Resigning the Right of Dower.

KNOW ALL MEN BY THESE PRESENTS: That on this tenth day of May, in the year of our Lord one thousand eight hundred and fifty-four, that Alonzo Ball, of the Town of _____, in the District of _____, of the Province of Canada, sawyer, of the first part; Julia Ball, the wife of the said party of the first part, of the second part; and Jonas Simpson, of the City of _____, of the said Province, gentleman, of the third part, WHEREAS: The said parties of the first and second part, for and in consideration of the sum of one hundred pounds, lawful money of Canada, to them

by t
befo
whe
gran
and
sell,
part
assign
his h
sole
esta
posse
or t
descr
said
purte
part,
Subj
and
Crow
hereb
will
of the
and l
claim
IN
unto
first
Signe

With
KN
the T
da, ge
ship o
man,
part,
lawful
me pa
ty of t
lease,
his he
Singul

WARRANTY DEED.

by the said party of the third part, in hand well and truly paid at or before the sealing and delivery of these presents, the receipt whereof we do hereby acknowledge, HAVE quit-claimed, and given granted, bargained, sold, aliened, released, en-feoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, release, en-feoff, convey and confirm unto the said party of the third part, his heirs, executors, administrators and assigns, and forever quit-claim, unto the said party of the third part, his heirs, executors, administrators and assigns, to his and their sole use forever, all our, and each of our right, title, interest, estate, claim, and demand, both at law and in equity, as well in possession as in expentancy of, in, and to, all that certain parcel or tract of land and premises, situate, lying, and being (*here describe the premises to be conveyed*;) TO HAVE AND TO HOLD the said premises, with all and singular the hereditaments, and appurtenances thereto belonging, to the said party of the third part, his heirs, executors, administrators and assigns, forever; Subject nevertheless, to the reservations, limitations, provisos and conditions, expressed in the original grant thereof from the Crown: And we the said parties of the first and second part, Do hereby covenant with the said party of the third part, that we will warrant the aforesaid lands and premises, to the said party of the third part, his heirs, executors, administrators and assigns, and behoof, forever; against the lawful claims of all persons claiming under us or either of us.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

W. T. SMITH,

W. H. EDMONSON.

A. BALL,

JULIA BALL,

J. SIMPSON.

[Seal.]

[Seal.]

[Seal.]

WARRANTY DEED, (*Short Form.*)

Without Dower.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Waldo, of the Town of , in the County of , of the Province of Canada, gentleman, of the first part; and Oliver Sussex, of the Township of , in the County of , of the said Province, yeoman, of the second part, WHEREAS: I the said party of the first part, have for and in consideration of the sum of pounds, lawful money of this Province, received to my full satisfaction, to me paid by the said party of the second part, AND I, the said party of the first part, Do hereby give, grant, bargain, sell, alien, release, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, forever, All and Singular that certain [*here description*:] TO HAVE AND TO HOLD the

above granted and bargained premises, with the appurtenances thereof, unto the said party of the second part, his heirs and assigns, to his and their own proper use and behoof, forever; [*if for land insert here*, Subject to the reservations of the Crown:] And I the said party of the first part, do, for myself, and my heirs, executors and administrators, covenant with the said party of the second part, his heirs and assigns, that at and until the ensealing of these presents, I am well seized of the premises, as of a good and inde-feasible estate in fee simple, and have good right to bargain and sell the same, in manner and form aforesaid, and that the same is free from all incumbrances whatsoever: And further, I do by these presents bind myself, and my heirs, to warrant and forever defend the above granted and bargained premises, unto the said party of the second part, his heirs, executors and assigns, against all claims and demands whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,
in presence of
CHARLES SCOTT,
PETER JONES.

CHARLES WALDO,
OLIVER SUSSEX.

[Seal.]
[Seal.]

WARRANTY DEED.

Resigning the Right of Dower.

KNOW ALL MEN BY THESE PRESENTS: That I, Wellington Nelson, of the City of , in the County of , and District of , of the Province of Canada, merchant, of the first part; and Henry Piper, of the City of , and District of , of the said Province, merchant, of the second part, WHEREAS: The said party of the first part, hath for and in consideration of the sum of pounds shillings, lawful money of Canada, to him by the said party of the second part, in hand well and truly paid, at or before the sealing and delivery of these presents; the receipt whereof is hereby acknowledged, HATH given, granted, bargained, sold, aliened, released, en-feoffed, conveyed and confirmed, and by these presents doth give, grant, bargain, sell alien, release, en-feoff, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, All and Singular, that certain (*here give description*, if for land by bounds;) a certain tract of land situate, lying, and being in said Town of , warranted to contain sixty acres, by measure, (or containing sixty acres, more or less,) bounded on the South-westerly side by the Queen's High-way, on the North-westerly side by the dwelling, etc., and lands of , thence in the rear by the River Thames, and on the South-easterly side by the Flowering Mills and lands of , with the buildings

stan
Shie
in t
Prov
HAVE
and
there
execu
here,
party
and w
admin
ple, of
cumb
right t
I and
rant a
ond pa
hoof, f
sons cl
claimi

IN W
Mary
right i
at the s
elevent
hundred
Signed,
in

DEED

Know

of the su
The Gran
of is her
confirm,
Canada,
tract or p
having be
purposes
and prem
said The
assigns fe

DEED TO THE GRAND TRUNK RAIL-WAY COMPANY.

standing thereon;) being the same conveyed to me by Allen Shields, by his deed dated the 24th day of June, 1841, recorded in the registry of deeds for the County of Norfolk, of said Province, office of registry at Simcoe, C. W., vol., page : To HAVE AND TO HOLD the above granted premises, Together with all and singular the hereditaments, privileges and appurtenances thereunto belonging, to the said party of the second part, his heirs, executors, administrators and assigns, forever; (if for land insert here, Subject to reservations of the Crown :) And I, the said party of the first part, for myself and my heirs, do covenant to and with the said party of the second part, his heirs, executors, administrators and assigns, that I am lawfully seized in fee-simple, of the aforegranted premises; that they are free from all incumbrances: That I the said party of the first part have good right to sell and convey the same, in manner aforesaid; and that I and my heirs, executors, administrators and assigns, will warrant and defend the same premises, to the said party of the second part, his heirs, executors, administrators and assigns, and behoof, forever; against the lawful claims and demands of all persons claiming under me, (*if there are two or more grantor's say, claiming under us or either of us*).

IN WITNESS WHEREOF, I, the said party of the first part and Mary Nelson, my wife, in token of her relinquishment of her right in Dower, have hereunto set our hands and affixed our seals, at the same time and with the grantee hereinbefore named, this eleventh day of May, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,
in presence of
HENRY T. JONES,
CHARLES SNAITH.

WELLINGTON NELSON, [Seal.]
MARY NELSON, [Seal.]
HENRY PIPER. [Seal.]

DEED TO THE GRAND TRUNK RAIL-WAY COMPANY.

KNOW ALL MEN BY THESE PRESENTS: That I, William Hall, of [here name the wife if any,] do hereby in consideration of the sum of lawful money of this Province, paid to me by The Grand Trunk Railway Company of Canada, the receipt whereof is hereby acknowledged, Do grant, bargain, sell, convey and confirm, unto the said *The Grand Trunk Rail-way Company of Canada*, their successors and assigns forever, all that certain tract or parcel of land situate [here describe the land:] the same having been selected and laid out by the said Company for the purposes of their *Rail-way*: To HAVE AND TO HOLD the said land and premises, Together with the hereditaments thereto, to the said *The Grand Trunk Rail-way Company*, their successors and assigns forever, [here release of Dower if any.]

WITNESS my Hand and Seal, this day of one thousand
eight hundred and fifty- .

Signed, Sealed and Delivered,
in presence of

WILLIAM JONES,
PETER SMITH.

WILLIAM HALL, [Seal.]
[here name of wife in
case of Dower.] [Seal.]

DEED TO THE HAMILTON AND TORONTO RAIL-WAY
COMPANY.

KNOW ALL MEN BY THESE PRESENTS : That I, Charles Johnson, of _____, do hereby in consideration of the sum of _____ lawful money of Canada, paid to me by the *Hamilton and Toronto Railway Company*, the receipt whereof is hereby acknowledged, Do grant, bargain, sell, convey and confirm, unto the said Hamilton and Toronto Rail-way Company, their successors and assigns, forever, all that certain tract or parcel of land situate _____, the same having been selected and laid out by the said Company for the purposes of their Rail-way : TO HAVE AND TO HOLD the said land and premises, Together with the hereditaments and appurtenances thereto, to the said Hamilton and Toronto Rail-way Company their successors and assigns, forever.

WITNESS my hand and Seal, this day of
one thousand eight hundred and fifty- .

Signed, Sealed and Delivered,

in presence of

THOMAS THAIN,
W. H. RICHMOND.

CHARLES JOHNSON. [Seal.]

DEED TO A RAIL-WAY COMPANY.

KNOW ALL MEN BY THESE PRESENTS: That I, _____, of _____,
(insert the name of the wife also if she is to release her Dower, or
for any other reason to join in the conveyance,) _____ do hereby
in consideration of the sum of _____ lawful money of Canada, to
me paid (or as the case may be) by the _____ Rail-way Com-
pany, the receipt whereof is hereby acknowledged, Do grant, bar-
gain, sell, convey and confirm, unto the said _____ Rail-way Com-
pany, their successors and assigns, forever: All that certain par-
cel or tract of land situate (describe the land;) the same having
been selected and laid out by the said Company for the purpose
of their Rail-way: To HAVE and hold the said land and premises,
Together with the hereditaments and appurtenances thereto
to the said _____ Rail-way Company, their successors and assigns,
forever; (if there be Dower to be released add,) "and I, (name of
wife) hereby release my Dower on the aforesaid premises."

DEED FOR THE SITE OF A COMMON SCHOOL HOUSE, ETC.

WITNESS my (or our) hand (or hands) and seal (or seals,) this
day of _____, one thousand eight hundred and fifty-
Signed, Sealed and Delivered,
in presence of
HENRY TOBIAS, } JOHN ABELS, [Seal.]
WILLIAM HENDERSON. } (And if wife join.)
CAROLINE C. ABELS [Seal.]

*N. B.—A Deed to a Rail-way Company may be Registered up-
on production thereof, and proof of execution, without any memo-
rial, and to minute such entry on the Deed; Registrars Fees for
so doing Two shillings and sixpence, and no more, which said en-
registration is valid in law.*

DEED FOR THE SITE OF A COMMON SCHOOL HOUSE,
AND TEACHER'S RESIDENCE.

THIS INDENTURE, made the _____ day of _____, in the year of
our Lord one thousand eight hundred and _____, in pursuance
of the Act to facilitate the Conveyance of Real Property, between
_____, of the Township (Town or City) of _____,
in the County of _____, and Province of Canada, of the
first part; and the Trustees of School Section Number _____,
in the Township of _____, in the County of _____, and
Province aforesaid, of the second part, WITNESSETH: that for and
in consideration of the sum of _____ pounds, lawful money of
Canada, now paid by the Trustees of the School Section afore-
said, their successors and assigns forever, All that parcel of
land, &c.

In trust for the use of a Common School, in and for School
Section Number _____, in the Township of _____, and in the
County and Province aforesaid, The said _____, covenants
with the Trustees of the School Section aforesaid, that he hath
the right to convey the said lands to the Trustees of the Section
aforesaid: And that the Trustees of the School Section aforesaid
shall have quiet possession of the said lands, free from all incum-
brances: And the said _____ covenants with the Trustees
of the School Section aforesaid, that he will execute such further
assurances of the said lands, as may be requisite.

IN WITNESS WHEREOF, the said parties to these presents have
hereunto set their hands and affixed their seals, the day and year
before mentioned.

Signed, Sealed and Delivered } CHARLES JONES, [Seal.]
in presence of } PETER RICH, {
JAMES HALL, } HENRY BURNHAM, { Corporate }
LEWIS DAVIS. } GUSTAVUS YATES. { Seal. }

Trustees.

REMARKS.—1. If the grantor be a married man, his wife's name
must be inserted in the deed, and this phrase added after the
word

word "requisite:" And _____, wife of the said _____, hereby bars her dower in the said lands.

2. When, however, the land has descended to the wife in her own right, she must, besides joining with her husband in the conveyance, appear before two justices of the peace, to declare that she has parted with her estate in the land intended to be conveyed without any coercion or fear thereof by or on the part of her husband; and the certificates of such justices must appear on the back of the conveyance the day of its execution. The form of the certificate is as follows;—

"We the undersigned Justices of the Peace for _____, do hereby certify that on this _____ day of _____, 18____, at _____, the within deed was duly executed in the presence of _____, by _____, wife of _____, one of the grantors therein named; and that the _____, at the said time and place, being examined by us, apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever."

"R. W——, J. P.

"A. M——, J. P."

3. If the deed be for the site of a school-house in a city, town, or incorporated village, the words, board of school trustees for such city, town or village, should be inserted instead of the words "Trustees of school section number," &c., in the foregoing form. See the twenty-fourth and twenty-sixth sections of the Act.

SHERIFF'S DEED POLL.

PROVINCE OF CANADA.

TO ALL TO WHOM THESE PRESENTS SHALL COME: I, Henry Johnson, Esquire, Sheriff of the United Counties of _____, send GREETING:—

WHEREAS, under and by Virtue of a Writ of *Fieri Facias*, issued out of the County Court, of the County of _____, now one of the United Counties of _____, commanding me that of the Goods and chattels of Oliver Daniels, I should cause to be made Seventy-five pounds, which Thomas Russell and Peter Davis Hall, in the County Court of the County of _____, recovered against him for their damages, which they had sustained as well on the occasion of the not performing certain promises, lately made by the said Defendant, to the said Plaintiff's as for their costs, charges by them about their suit in that behalf expended, whereof the said Defendant was convicted as appears of Record, and that I should have that money before the said Court at _____, on the _____ day of _____, Term, one

thous
Plain
Writ
afore
direct
Defen
had p
ings,
sum o
tiff's
goods
made
By Vi
of the
dant,
shilling
the mo
first da
four, r
ages a
fieri fa
large a
in the

duly ad
one tho
adjudg
shilling
that co
Now
JOHNSON
in consi
ration o
money
Wells o
the reco
sold, as
do barg
les Wel
and Sin
iels, of, i
cession o
Lot num
of
aforesaid
be the s
with the
terest or

thousand eight hundred and fifty-three; to render to the said Plaintiff's for their damages aforesaid, together with the said Writ, and I on that day returned to the said Court at aforesaid, that by Virtue of the said Writ of *Fieri Facias*, to me directed, I had levied of the proper goods and chattels of the said Defendant to the amount of sixty pounds, of which said sum I had paid to the landlord, the sum of twelve pounds fifteen shillings, being the rent due by the said Defendant, and the remaining sum of forty-seven pounds five shillings, I had paid to the Plaintiff's attorney, and that the said Defendant had not any other goods or chattels in my County whereof I could cause to be made the residue of the damages aforesaid or any part thereof: By Virtue of which said return I was further commanded that of the Lands and Tenements in my County of the said Defendant, I should cause to be made twenty-seven pounds fifteen shillings, residue of the damages aforesaid, and that I should have the money before the said Court at aforesaid, on the first day of Term, one thousand eight hundred and fifty-four, rendered to the said plaintiffs for the residue of the damages aforesaid, together with the said writ, as by the said writ of *fieri facias* reference being thereto had, will more fully and at large appear certain that the lands in the Township of in the County of one of the said United Counties of

were seized and taken in execution and having been duly advertized according to law, Were on the day of one thousand eight hundred and fifty-four, exposed to sale, and adjudged to Charles Wells, for the sum of forty-seven pounds five shillings, lawful money of the said Province, being the best price that could be obtained for the same.

NOW KNOW ALL MEN BY THESE PRESENTS: That I, HENRY JOHNSON, Esquire, Sheriff of the United Counties of in consideration of the said seizure and sale and also in consideration of the sum of forty-seven pounds five shillings, lawful money of Canada, to me in hand well and truly paid by Charles Wells of the Town of in the County of Esq., the receipt whereof is hereby acknowledged, HAVE bargained, sold, assigned, transferred, and set-over and by these presents, do bargain, sell, assign, transfer and set-over, unto the said Charles Wells, his heirs, executors, administrators and assigns, ALL and Singular the right, title and interest of the said Oliver Daniels, of, in and to part of Lot number Seven, in the Tenth Concession of the Township of and also known as Village Lot number Nine on the West side of Peter Street, in the Village of in the Township of aforesaid, and County aforesaid, containing by admeasurement one quarter of an acre be the same more or less: TO HAVE AND TO HOLD the said Lands with the appurtenances and all and singular the right, title, interest or claim, which the said Oliver Daniels at the issuing of the

the execution had in the same, unto the said Charles Wells, his heirs, executors, administrators and assigns, and to his and their sole use, benefit and behoof, forever.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of Office, this day of , in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered, }
in presence of } HENRY JOHNSON, [Seal.]
WILLARD MILES, } Sheriff.
SAMUEL AUSTIN. }

SHERIFF'S DEED OF SALE, (C. E.)

PROVINCE OF CANADA.

TO ALL TO WHOM THESE PRESENTS SHALL COME: I, Henry Johnson, Esquire, Sheriff, of the of , in the Province, of Canada, send GREETING:—

WHEREAS, on the day of , in the year of our Lord one thousand eight hundred and fifty- , a certain Writ of Execution of our Lady the QUEEN, was sued out of holding Civil Pleas in the said , at the suit of

AND WHEREAS: I the said Sheriff, having so seized into my hands, and taken the said in execution, did cause the same to be advertized and published according to Law, to be sold and adjudged to the highest bidder, at on the day of at the hour of of the clock in the noon, and the said being then and there put up to sale in the usual manner become the purchaser thereof, being the best and highest bidder, at and for the price or sum of pounds, lawful money of the Province of Canada aforesaid: Now, in order to convey the said (*here give description*;) and to confirm the purchase thereof to the said , heirs and assigns,

KNOW ALL MEN BY THESE PRESENTS: That I, the said HENRY JOHNSON, Sheriff as aforesaid, by virtue of the said Writ of Execution, and of my said Office, and for and in consideration of the said sum of to me in hand well and truly paid by the said , at or before the execution hereof, the receipt whereof I do hereby acknowledge, and therefore do acquit and discharge the said heirs and assigns, HAVE granted, bargained, sold and conveyed, and by virtue of the said Writ of Execution, and these presents, do, as much as in me is, and I lawfully may grant, bargain, sell and convey to the said heirs and assigns, All the said hereinbefore mentioned, situate, lying and being as aforesaid, and also all and singular the right, title, interest, property, claim and demand whatsoever, of me the said Sheriff, by virtue of the Writ of Execution aforesaid.

SHERIFF'S DEED OF LEASEHOLD PROPERTY.

said, of, in and to the same and every part and parcel thereof: To HAVE AND TO HOLD all the said , in and by these presents bargained, sold and conveyed, and every part and parcel, thereof, with and every of the appurtenances, unto the said , heirs and assigns, to the only proper use, benefit and behoof of the said , heirs and assigns, forever, and to and for no other use, intent or purpose whatever.

In WITNESS WHEREOF, I, the said Sheriff, have hereunto set my hand, and affixed my seal of Office, this day of , in the year of the Reign of our Sovereign Lady VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of

HORACE BAKER,
JAMES LAGRANGE.

} HENRY JOHNSON, (Seal.)
Sheriff.

SHERIFF'S DEED OF LEASEHOLD PROPERTY.

At the Suit of James Boyd, vs. Peter Piper.

PROVINCE OF CANADA.

TO ALL TO WHOM THESE PRESENTS SHALL COME: I, Henry Johnson, Esquire, Sheriff of the County or United Counties of (as the case may be) send GREETING:—

WHEREAS, under and by virtue of a Writ of *Fieri Facias* issued, out of the County Court of the County of , the fifth day of April, one thousand, eight hundred, and fifty-four, to me directed, commanding me to seize the goods and chattels of Peter Piper, of said County, and cause to be made the sum of three pounds ten shillings, currency, which were awarded to James Boyd, for his costs and charges, by him laid out and expended about his defence, in a certain action of replevin lately brought in the said Court by the said Peter Piper, against the said James Boyd,—Whereof the said Peter Piper, was convicted as appears of Record and that I should have the said sum of money before the said Court at , on the first day of June Term, one thousand eight hundred and fifty-four, to render the same to the said James Boyd, for his costs and charges aforesaid, together with the said writ as by the writ of *Fieri Facias* reference being thereto had will more fully and at large appear certain Leasehold premises, situate in the Township of , in the County of , were seized and taken in Execution and having been duly advertized, according to law, were on the third day of June, one thousand eight hundred and fifty-four, exposed, to sale at auction and adjudged, to James Boyd, of the Township of , in the said County of , yeoman, for the sum of three pounds ten

ten shillings, currency, being the best price that could be obtained, for the same.

Now KNOW ALL MEN BY THESE PRESENTS: That I, HENRY JOHNSON, Esquire, Sheriff of the County of _____, under and by virtue of the said, Writ of *Fieri Facias* and in consideration of the sum of three pounds ten shillings, lawful money of Canada, to me, in hand, well and truly paid by the said James Boyd, of the Township of _____, in the said, County of _____, and Province aforesaid, the receipt whereof is hereby acknowledged, Have sold and assigned, and by these presents, do sell and assign all and singular the right, title and interest in the Leasehold premises, situate in the Township of _____, being lot number eleven in the sixth concession of the said Township: TO HAVE AND TO HOLD the said premises, unto the said James Boyd, his heirs and assigns, and to his and their sole use, benefit and behoof, to the expiration, or end of said lease, which lease shall cease and end on the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and fifty-four.

IN WITNESS WHEREOF, I, the said Henry Johnson, Sheriff as aforesaid have hereunto set my hand and affixed my seal of Office, this third day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of
LEWIS TOBIAS,
DANIEL DAVIDSON.

HENRY JOHNSON, (Seal.)
Sheriff.

PROVINCE OF CANADA.

County of _____, } SHERIFF'S DEED OF SALE FOR
to Wit: } TAXES.

THESE PRESENTS WITNESS: That I, the Sheriff, hereinafter named, have for and in consideration of the sum of _____ lawful money of the Province of Canada, to me paid by _____ of the _____, in the _____, of the Province aforesaid, being the purchaser at Public Auction of the parcel or tract of land hereinafter mentioned, sold to pay Assessments, under a Writ to me directed, according to the law in that behalf, I, HENRY JOHNSON, Sheriff of the County of _____ or United Counties of _____, (as the case may be,) Do by these presents grant, bargain, and sell, unto the said _____, his heirs, executors, administrators and assigns, ALL AND SINGULAR, that certain parcel or tract of land, situate, lying and being in the Township of _____, in the County of _____, and Province aforesaid, (here describe the property:) TO HAVE AND TO HOLD the premises, hereby bargained, and sold, and all benefit and advantage thereto belonging, unto and to the use of the said _____, his heirs, executors, administrators and assigns, forever.

IN W
my seal
one tho
Signed,
in
J
C

PROVINCE

THIS
of our
Henry J
United C
of the fir
the Count
second p
decree, is
the Count
(or as th
for the sa
eight hum
the said C
Abbott C
Dole, Def
ed, That
shall deer
the rules
law in suc
tain piece
tiff's bill o
at the To
public no
such sale,
County of
AND that
to the said
duly confi
enrolled, th
ficient De
mises, in f
said sale,
said order
notice of t
and decre

SHERIFF'S DEED IN PARTITION.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of Office, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of
JOHN SOLOMAN,
CHARLES BATES.

} HENRY JOHNSON, [Seal.]
Sheriff.

SHERIFF'S DEED IN PARTITION.

By Order of Court.

PROVINCE OF CANADA.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Henry Johnson, Esquire, Sheriff of the County of , or United Counties, (as the case may be,) in the Province of Canada, of the first part; and Charles Harrison, of the City of , in the County of , and Province aforesaid, merchant, of the second part, WHEREAS: In and by Virtue of a certain order and decree, issued out of the Court of Chancery, or County Court of the County of , now one of the United Counties of , (or as the case may be,) held at the Town of , in and for the said County, on the day of , one thousand eight hundred and , in a certain cause there pending in the said Court, between Thomas Rich, Lewis Hall, Plaintiffs and Abbott Cowan, Charles Daniels, James Davids, and William Dole, Defendants, it was, by the said Court, adjudged and ordered, That the said Sheriff do sell in such separate parcels as he shall deem most for the benefit of the said parties, according to the rules and practice of the said Court, and according to the law in such case, made and provided, All and Singular, that certain piece or parcels of land premises mentioned, by the Plaintiff's bill of complaint filed in the above cause, At Public Auction, at the Town of , in the said County of , after giving public notice week's previous to the time and place of such sale, in one or two public newspapers published in the said County of , and in such other manner as required by law; AND that the said Sheriff, after such sale, make a return thereof to the said Court; and after such return of sale shall have been duly confirmed, and the said order and decree shall have been enrolled, that the said Sheriff execute and deliver a good and sufficient Deed or Deeds of Conveyance for the said lands and premises, in fee simple, to the purchaser or purchasers thereof, at the said sale, AND WHEREAS: the said Sheriff in pursuance of the said order and decree from said Court, and having given due notice of the time and place of sale, agreeably to the said order and decree, Did, on the day of , one thousand eight hundred and

hundred and _____, sell at public Auction, at the Town of _____, aforesaid, the lands and premises in the said order mentioned; at which sale the premises hereinafter described, were adjudged to the said party of the second part, for the sum of _____ pounds, lawful money of Canada, being the best price that could be obtained for the same; such sale having been reported by the said Sheriff to the said Court, and duly confirmed.

Now THIS INDENTURE WITNESSETH: That I, Henry Johnson, Esquire, Sheriff of the County of _____, in the said Province, in pursuance of the order and decree of the said Court, for and in consideration of the premises and sale, and also in consideration of the sum of _____ pounds, lawful money of Canada, to me in hand well and truly paid, by the said party of the second part, of the City of _____, in the County of _____, merchant, the receipt whereof is hereby acknowledged, HAVE granted, bargained, sold and conveyed, and by these presents, do grant, bargain, sell, and convey, unto the said party of the second part, his heirs, executors, administrators and assigns, forever, All that certain (*here give full description:*) To HAVE AND TO HOLD all and singular the premises herein mentioned and described, with all the appurtenances, hereby conveyed, or intended so to be, unto the said party of the second part, his heirs, executors, administrators and assigns, to his and their own proper use, benefit and behoof, forever.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my seal of Office, this day of , in the year of our Lord
one thousand eight hundred and .
Signed, Sealed and Delivered,)

JAMES LAWSON [Seal]

Signed, Sealed and Delivered,

in presence of

JOHN RICHMOND,

CHARLES STEADMAN,

HENRY JOHNSON, [Seal.]
Sheriff.

SHERIFF'S DEED ON FORECLOSURE, AND SALE.

PROVINCE OF CANADA.

THIS INDENTURE, made the day of , in the year of
our Lord one thousand eight hundred and , between
Henry Johnson, Esquire, Sheriff of the United Counties of
 , in the Province of Canada, of the first part; and Samuel
Tobias, of the Town of , in the County of , and
Province aforesaid, shoemaker, of the second part, WHEREAS:
In and by Virtue of a certain decree and order issued out of the
Court, held at the City of , for said County,
one of the United Counties of , aforesaid, on the
day of , one thousand eight hundred and fifty-four, in a
certain cause there pending in the said Court, between James
Wain

SHERIFF'S DEED ON FORECLOSURE, AND SALE.

Wain, for the sum of pounds, secured by Mortgage, Plaintiff, and Charles Astor, Defendant, it was ordered and adjudged by the said Court: That all and singular the mortgaged premises, mentioned in the Plaintiff's complaint in said cause, and in said, decree described, or so much thereof as will be sufficient to pay the plaintiff, the principal, interest and costs, in said cause, and which may be sold separately at public auction, without material injury to the parties interested, according to the course and practice of this Court, And under the direction of the said Sheriff, the party of the first part; That the said sale be made on the day of , at the Court House in said County, at the hour of of the clock in the noon of that day, that the said Sheriff give public notice of the time and place of such sale, according to the course and practice of the said Court, and that it shall be lawful for any of the parties in said cause to become purchaser, or purchasers, of the said Mortgaged premises, or such part or parts as are to be sold: And to grant a good and sufficient Deed or Deeds of Conveyance for the same; AND whereas I the said Sheriff, in pursuance of the order and decree of the said Court, Did, on the said day of , in the year one thousand eight hundred and , sell at public auction at the said Court House in the Village of , the premises in the said order mentioned, due notice of the time and place of said sale being first given, agreeably to the order from said Court; at which sale the premises hereinafter described were adjudged to Samuel Tobias, the party of the second part, he being the highest bidder, at and for the price or sum of pounds, lawful money of Canada, being the best price that could be obtained for the same.

NOW THIS INDENTURE, WITNESSETH: That I, Henry Johnson, Esquire, Sheriff, of the United Counties of , in the said Province, in pursuance of the order and decree of the said Court, and in conformity to the law in such case made and provided, and also for and in consideration of the premises, and for the said sum of pounds, lawful money of Canada, aforesaid, to me in hand well and truly paid by the said party of the second part, the receipt whereof is hereby acknowledged, Have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, forever, All that certain *(here give description:)* To HAVE AND TO HOLD all and singular, the right, title and interest of the said Charles Astor, in the premises, hereby conveyed, or intended so to be, unto the said party of the second part, his heirs and assigns, to his and their own proper use, and behoof, forever.

IN WITNESS WHEREOF, I, the said Sheriff have hereunto set my
 90
 hand

hand and affixed my seal of Office, this day of , in the
year of our Lord one thousand eight hundred and .

Signed, Sealed and Delivered,

in presence of
NELSON WALTON,
THADEUS PETERS.

HENRY JOHNSON, [Seal.]
Sheriff.

BILL OF SALE OF GOODS.

KNOW ALL MEN BY THESE PRESENTS : That I, *Alfred Stedman*, of the Village of *St. John's*, in the County of *St. John's*, Province of Canada, merchant, for and in consideration of the sum of *six hundred and twenty pounds*, lawful money of Canada, to me in hand paid by Oliver Walker, of the same place ; at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, HAVE bargained, sold, and delivered, and by these presents do bargain, sell and deliver, unto the said Oliver Walker, *(here insert the particulars of the goods sold ; or refer to them in the Schedule annexed):* TO HAVE AND TO HOLD the said goods, unto the said Oliver Walker, his heirs, executors, administrators and assigns, to his and their own proper use and benefit forever: AND I, the said Alfred Stedman, my heirs, executors, administrators and assigns, will warrant and defend the said bargained goods, unto the said Oliver Walker, his heirs, executors, administrators and assigns, from and against all persons whomsoever.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this day of , in the year of our Lord one thousand eight hundred and .

Signed, Sealed and Delivered,

in presence of
HORATIO WELLS,
LEWIS SANDERSON.

ALFRED STEDMAN, [Seal.]
OLIVER WALKER. [Seal.]

ANOTHER BILL OF SALE OF GOODS.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Piper, of the City and District of Montreal, of the Province of Canada, merchant, of the first part; and Stephen Hill, of the said City and District of Montreal, of said Province, merchant, of the second part, **WHEREAS:** The said party of the first part for and in consideration of the sum of two hundred and twenty pounds ten shillings, lawful money of Canada, to him in hand paid, by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, **AND HAVE bargained, sold and delivered, and by these presents do sell and deliver unto the said party of the first part,**

present
of the
Schedu
the said
trators
forever
heirs, c
defend
second
and ag
IN V
hereun
of May
and fil
Signed,
in

BILL

Known the Town
vince of
of the s
well an
the Cou
second
bargain
and con
ecutors,
three a
the farm
the Tow
and thre
now in
TO HOLD
scribed,
tors, ad
the first
and assi
the seco
to warr
live stoc
his heirs
all and
the said

BILL OF SALE, OF GROWING CROP AND STOCK.

presents, Do hereby bargain, sell, and deliver, unto the said party of the second part, (*here insert the particulars, or refer to the Schedule annexed:*) To HAVE AND TO HOLD the said goods, unto the said party of the second part, his heirs, executors, administrators and assigns, to his and their own proper use and benefit, forever; And I, the said party of the first part, for myself, my heirs, executors, administrators and assigns, will warrant and defend the said bargained goods, unto the said party of the second part, his heirs, executors, administrators and assigns, from and against all persons whomsoever.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

STYLES HOLMES,

L. H. JONES.

}

HENRY PIPER,

STEPHEN HILL.

[Seal.]

[Seal.]

BILL OF SALE, OF GROWING CROP AND STOCK.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Hall, of the Township of _____, in the County of _____, of the Province of Canada, yeoman, of the first part; for and in consideration of the sum of _____ pounds, lawful money of Canada, to me in hand well and truly paid, by James Roberts, of the Village of _____, in the County of _____, and Province aforesaid, merchant, of the second part, the receipt whereof is hereby acknowledged, HAVE bargained and sold, and by these presents, do grant, bargain, sell and convey, unto the said party of the second part, his heirs, executors, administrators and assigns, two ten acre fields of Wheat three acres of Oats, now growing on the farm of (*here describe the farm.*) Lot number _____ in the seventh Concession of _____, in the Township of _____, aforesaid, one Span of Grey Horses and three Cows, belonging to the said party of the first part, and now in his possession, at the place last aforesaid: To HAVE AND TO HOLD the said growing crops, and live stock hereinbefore described, unto the said party of the second part, his heirs, executors, administrators and assigns, forever: And I, the said party of the first part, do for myself, my heirs, executors, administrators and assigns; COVENANT and Agree, to and with the said party of the second part, his heirs, executors, administrators and assigns, to warrant and defend the sale of the said growing crops and live stock, hereby made, unto the said party of the second part, his heirs, executors, administrators and assigns, forever; against all and every person or persons whomsoever, claiming under me the said party of the first part.

IN WITNESS WHEREOF, the said party of the first part hath hereunto set his hand and affixed his seal, this day of ,
in the year of our Lord one thousand eight hundred and .

Signed, Sealed and Delivered,

in presence of
EDWARD HOLMES,
PETER LINES.

CHARLES HALL. [Seal.]

COMMON FORM TO SECURE A NOTE.

Resigning the Right of Dower.

KNOW ALL MEN BY THESE PRESENTS: That I, Styles Holmes, of the City and District of Montreal, of the Province of Canada, trader, of the first part; and James Hall, of the Town of Chatham, in the District of Montreal, and Province aforesaid, lumber merchant, of the second part, WHEREAS: The said party of the first part, hath, for and in consideration of the sum of pounds, lawful money of Canada, to him in hand well and truly paid, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, AND doth hereby give, grant, sell, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, his warehouse, situate in , described as follows, (*describe the premises* :) TO HAVE AND TO HOLD the aforegranted premises to the said party of the second part, his heirs, executors, administrators and assigns, to his and their use, and behoof, forever; AND he the said party of the first part, does hereby for himself, his heirs, executors, administrators and assigns, Covenant with the said party of the second part, his heirs, executors, administrators and assigns, that he is lawfully seized in fee simple, of the aforegranted premises, that they are free from all incumbrances, and that he hath good right to sell and convey the same, to the said party of the second part; AND that he and his heirs, executors, administrators and assigns, will warrant and defend the said premises, to the said party of the second part, his heirs, executors, administrators and assigns, forever; against the lawful claims of all persons: PROVIDED, nevertheless, that if the said party of the first part, or his heirs, executors, administrators, or assigns, shall well and truly pay, to the said party of the second part, his heirs, executors, administrators or assigns, the sum of pounds, lawful money with interest, in one year from the date hereof, then this deed as also a certain note of hand, bearing even date with these presents, given by the said party of the first part, to pay the sum at the time aforesaid, shall both be void; otherwise the same shall remain in full force and virtue.

IN WITNESS WHEREOF, the said parties to these presents together with Anna Holmes, the wife of the said party of the first

MORTGAGE BY QUIT-CLAIM, AS COLLATERAL SECURITY, ETC.

part, who joins the said parties to this DEED for the purpose of relinquishing her right of Dower in the premises, for the sum of five shillings, to her in hand paid, by the said party of the second part, have hereunto set their hands and affixed their seals, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

PETER SLOAN,

STEPHEN HILL.

}

STYLES HOLMES,

ANNA HOLMES,

JAMES HALL.

[Seal.]

[Seal.]

[Seal.]

N.B.—For Canada West say County, (instead of District.)

MORTGAGE BY QUIT-CLAIM, AS COLLATERAL SECURITY FOR A NOTE.

KNOW ALL MEN BY THESE PRESENTS: That I, Styles Holmes, of the City of Toronto, in the County of York, of the Province of Canada, trader, of the first part; and Lewis Hill Jones, of the Town of , in the County of Ontario, of the said Province, gentleman, of the second part, WHEREAS: I, the said party of the first part, have, for and in consideration of the sum of pounds shillings, lawful money, to me in hand well and truly paid, by the said party of the second part, the receipt whereof is hereby acknowledged, I the said party of the first part, Do hereby grant, sell, and quit-claim, unto the said party of the second part, his heirs, executors, administrators and assigns, all my right, title, claim and demand, in and unto a dwelling-house, lot, and out buildings, being situate in , described and bounded as follows, viz.: (*here describe them*;) To HAVE AND TO HOLD the same to the said party of the second part, his heirs, executors, administrators and assigns, to his and their use and behoof, forever; and I do hereby further covenant to warrant and defend the said granted premises, to the said party of the second part, his heirs, executors, administrators and assigns, forever; against the lawful claims and demands of all persons claiming under myself, my heirs and assigns: PROVIDED, nevertheless, that if I the said party of the first part, or my heirs, executors, administrators or assigns, shall well and truly pay to the said party of the second part, his heirs, executors, administrators or assigns, the sum of pounds shillings, lawful money of Canada, payable in two years from the date hereof with interest, thereon semi-annually, then this deed, as also a certain note of hand bearing even date herewith, given by me the said party of the first part; to the said party of the second part, to pay the said sum and interest, at the times aforesaid, shall both be void; otherwise, the same shall remain in full force and virtue.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

H. PIPER,

STEPHEN HILL.

} STYLES HOLMES, [Seal.]
L. H. JONES. [Seal.]

ACKNOWLEDGMENT OF DEBT SECURED BY MORTGAGE, (Short Form.)

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Richards, of the Town of _____, in the County of _____, of the Province of Canada, yeoman, Hereby acknowledge myself to be justly and truly indebted to William Richmond, of the Village of _____, in the County of _____, of said Province, merchant, in the lawful sum of _____ pounds _____ shillings, currency, payable, [here state the term or terms of payment:] and for the better securing the payment of the same, I do hereby Mortgage all that certain piece parcel or lot of Land, situate, lying and being in the Town of _____, in the County of _____, in said Province, (here describe the property by bounds;) TOGETHER with all and every, the houses, buildings, and appurtenances thereon, or thereunto belonging, (as the case may be,) unto the said William Richmond, his heirs, executors, administrators and assigns: TO BE HELD BY THEM AS SECURITY; until the payments as aforesaid, with the interest, costs and charges, (if any,) are fully paid: THEN THIS MORTGAGE shall be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this tenth day of _____, in the year of our Lord one thousand eight hundred and _____.

Signed, Sealed and Delivered,

in presence of

HENRY ANDERSON,

DANIEL GOOD.

} CHARLES RICHARDS. [Seal.]

ACKNOWLEDGMENT OF DEBT, SECURED BY MORTGAGE.

Mortgage with power of sale.

KNOW ALL MEN BY THESE PRESENTS: That I, Roger French, of the Town of _____, in the County of _____, and District of _____ of the Province of Canada, merchant, Do HEREBY acknowledge myself to be justly and truly indebted to Oliver Smith, of the City of Montreal, in said Province, grocer, in the lawful sum of _____ pounds, currency, payable (here describe the terms of payment;) and for the better securing the payment of the

the sa
piece,

the sa
compos
the Vi
proper
North
by the
houses,
longing

HAVE A
said Oli
as secu
hereinb
follows

Roger
the time
Mortga
force a
said Oli

signs, fu
premises
aforesaid
with all

in conse
ney so ju
shall el
shall ha

least one
said Rog
tice also
where th

month, a
within th
tives, ma

at privat
and gran
sufficient

premises,
purchaser

administ
IN WR

unto set
the year

Signed, S
in pr
W
Jo

ACKNOWLEDGMENT OF DEBT, SECURED BY MORTGAGE.

the same, I Roger French, Do hereby Mortgage all that certain piece, parcel or lot, of land, lying and being in the Village of _____, in the County of _____, and District of _____, of the said Province, containing by admeasurement _____, being composed of lot number _____ on the west side of King Street in the Village of _____, bounded as follows: on the South by the property of _____, on the West by the River _____, on the North by the Dwelling and lands of _____, and on the East by the aforesaid Street; TOGETHER with all and singular, the houses, buildings and appurtenances thereon, or thereunto belonging, (or as the case may be,) free of all incumbrances: To HAVE AND TO HOLD the aforesaid lands and premises, unto the said Oliver Smith, his heirs, executors, administrators and assigns, as security for the punctual payment of the sums of money as hereinbefore stated. THE CONDITION of the above Mortgage is as follows: That if the said payments are well and truly made, by Roger French, his heirs, executors, administrators, or assigns, at the times hereinbefore stated without any abatement, then this Mortgage shall be null and void; otherwise to remain in full force and virtue; AND hereby giving and granting, unto the said Oliver Smith, his heirs, executors, administrators and assigns, full power and authority to sell the aforesaid lands and premises, or a sufficient portion of the same to satisfy all the aforesaid payments, or the balance that may be due, together with all interest, costs and charges that have accrued, or may in consequence of the non-payment of the aforesaid sums of money so justly due: AND IT IS HEREBY FURTHER AGREED that there shall elapse at least six months after the time the last payment shall have become due and un-paid, after which by giving at least one month's notice in writing, previous to such sale, to the said Roger French, or to his legal representatives, the said notice also to be inserted in a newspaper published the nearest to where the property is situate, at least four insertions within the month, and in case the property so Mortgaged is not redeemed within that time, the said Oliver Smith, or his legal representatives, may sell the said lands and premises hereinbefore described at private sale or by public auction, as they may think advisable, and grant to the purchaser or purchasers thereof; a good and sufficient Deed or Deeds of Conveyance in the law, of the said premises, in fee simple, with all the usual covenants, unto the purchaser or purchasers at said sale, his or their heirs, executors, administrators and assigns, forever.

IN WITNESS WHEREOF, I, the said Roger French, have hereunto set my hand and affixed my seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Signed, Sealed and Delivered,

in presence of
WILLIAM WRIGHT,
JOHN BALL.

} ROGER FRENCH. [Seal.]

MORTGAGE DEED TO SECURE A NOTE.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Adam Jones, of the Town of , in the County of , of the Province of Canada, general merchant, of the first part; and Hanibal Stebins, of the City of , in the County of , of said Province, merchant, of the second part,

WITNESSETH: That the said party of the first part, for and in consideration of the sum of pounds, lawful money of Canada, the receipt whereof is hereby acknowledged, Doth grant, bargain, sell, convey and confirm, unto the said party of the second part, and to his heirs, executors, administrators and assigns, All that certain (*here give description*;) This CONVEYANCE is intended as a Mortgage to secure the payment of a promissary note, now held by the said party of the second part, given by the party of the first part, for the sum of pounds, lawful money of Canada, dated this day of , and payable to Hanibal Stebins, or order, two years from the date thereof, with interest; and if the amount of the said note and interest, shall be paid at maturity, then this mortgage shall become void; and the estate hereby granted shall cease and forever determine; But if default shall be made in the payment of the said sum of money, or the interest, or any part thereof; at the time hereinbefore specified for the payment thereof; The said party of the first part, in such case, doth hereby authorize, and give full power to the said party of the second part, his heirs, executors, administrators and assigns, to sell the said hereby granted premises at public auction, and give a good and sufficient deed of conveyance of the same to the purchaser, in fee simple with all the necessary covenants, and out of the money arising from such sale, to retain the principal and interest which shall then be due on the said note, together with all costs and charges, and the overplus, (if any,) to be paid to the said party of the first part, his heirs, executors, administrators or assigns, on demand.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
EBEN WALKER,
LORENZO HINDS.

ADAM JONES.

[Seal.]

MORTGAGE DEED TO SECURE ENDORSER.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between John , of the County of , of the Province of Canada, , of the first part; and Hanibal Stebins, of the City of , in the County of , of said Province, merchant, of the second part,

Richm
of the
Harris
afores
said pu

sell and
his heir
(here g
part, A
first par
promisse
sum of
six mon
their off
as secu
principa
be comp
able to p
said note
of the fi
real esta
But in c
part, in t
part ther
the said
paid by o
conveyan
party of
party of t
assigns, to
tion, and
good and
the same,
sale, to re
the said p
together v
if any to b
ecutors, ad

In WIT
unto set h
above writ
Signed, Se
in pre
S
J

MORTGAGE DEED TO SECURE ENDORSE.

Richmond, of the Village of _____, in the County of _____, of the Province of Canada, mill-wright, of the first part; and Harrison Jones, of the City of _____, in the County and Province aforesaid, gentleman, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds, lawful money of Canada, Doth grant, bargain, sell and confirm, unto the said party of the second part, and to his heirs, executors, and assigns, All and singular that certain *(here give description;)* WHEREAS, the said party of the second part, At the request, and for the benefit of the said party of the first part, HATH, on the day of the date hereof, endorsed a certain promissory note made by the said party of the first part, for the sum of _____ pounds, bearing even date herewith, and payable six month's after date, to the order of Henry Baring & Sons, at their office, in the City of _____, THIS CONVEYANCE is intended as security, to secure the said party of the second part for the principal, interest, costs, charges and expenses, which he may be compelled to pay; in case the party of the first part is not able to pay the said note, at maturity; And if the amount of the said note, and interest, shall be paid at maturity by the said party of the first part: THEN this conveyance shall be void, and the real estate hereby granted shall cease and utterly determine; But in case default shall be made by the said party of the first part, in the payment of the said sum of money, or interest, or any part thereof, at the time hereinbefore specified, thereby making the said party of the second part responsible, and the same be paid by or collected of the party of the second part, then this conveyance shall remain in full force and virtue; and the said party of the first part, Doth hereby authorize and empower the party of the second part, his heirs, executors, administrators and assigns, to sell the said premises hereby granted, at public auction, and convey and confirm the same to the purchaser, by a good and sufficient deed or deeds, of conveyance in the law, for the same, in fee simple, and out of the money arising from such sale, to retain the amount that has been paid or collected from the said party of the second part, as hereinbefore mentioned, together with all costs, charges and expenses, and the overplus if any to be paid to the said party of the first part, his heirs, executors, administrators, or assigns, on demand.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
SAMEUL SHAW,
JOHN RIDDEL.

} JOHN RICHMOND. [Seal.]

MORTGAGE DEED TO A CORPORATION.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Andrew Napier, of the City of , in the County of , of the Province of Canada, merchant, of the first part; and the Mayor, Aldermen and Commonality, of the City of , in the County and Province aforesaid, (or the Reeve and Council, of the &c., or as the case may be,) of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of pounds, lawful money of Canada, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, HATH granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, release, convey and confirm, all and singular the premises herein-after described, unto the said party of the second part, their successors and assigns, forever, All that certain (*here give full description*;) TOGETHER with the tenements, hereditaments and appurtenances, thereunto belonging, or in anywise appertaining; and also, all the estate, right, title, interest, property, possession, claim and demand, whatsoever, of the said party of the first part, of, in and to the same; and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: To HAVE AND TO HOLD the premises hereinbefore granted, with the appurtenances, unto the said party of the second part, their successors and assigns, to their proper use, benefit and behoof, forever: This conveyance is intended as a Mortgage, to secure the payment of the sum of pounds, lawful money of Canada, in manner following, to Wit: (*here state the terms of payment*;) according to the condition of the bond bearing even date herewith, executed by the said party of the first part, to the party of the second part, with the condition that these presents shall be void if such payment (or payments, as the case may be,) be made: But if default shall be made in the payment of the principal or interest aforesaid, as above provided, then the party of the second part, their successors and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale, to retain the said principal and interest, together with the costs and charges of making such sale, AND the overplus, if any, to be paid over by the party making the sale, to the said party of the first part, his heirs, or assigns, on demand: And the said party of the first part, DOTH Covenant, promise and Agree, to and with the said party of the second part, their successors and assigns, that he, the said party of the first part, shall and will, well and truly pay to the said party of the second part, their successors

successors
at the t
In W
unto set
above v
Signed,
in

THIS
our Lor
Oliver B
of
part; an
the Villa
aforesaid
Thompso
said part
of
well and
the ensea
is hereby
released,
grant, ba
said party
and their
TOGETHER
and appu
taining,
remainder
estate, rig
whatsoev
first part,
of, with
granted p
of the sec
and assign
CONVEYANC
the sum o
following,
according
may be) be
said party
and this C

MORTGAGE DEED TO EXECUTORS.

successors or assigns, the sum of money hereinbefore mentioned; at the time, according to the condition of the said bond.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

PARKIN HINDS,

HENRY DOLE.

ANDREW NAPIER. [Seal.]

MORTGAGE DEED TO EXECUTORS.

THIS INDENTURE, made the eleventh day of May, in the year of our Lord one thousand eight hundred and fifty-four, between Oliver Brown, of the Township of _____, in the County of _____, of the Province of Canada, farmer, of the first part; and James Wallace, and Daniel Evans Holden, both of the Village of _____, in the said County, and Province aforesaid, executors of the last will and testament of Otis Thompson, deceased, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds, lawful money of Canada, to him in hand well and truly paid by the party of the second part, at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, Hath granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, release, convey and confirm, unto the said party of the second part, and the survivor or survivors, his and their assigns, forever, All that certain (*here give description*;) TOGETHER with all and singular the tenements, hereditaments and appurtenances, thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the same, and every part and parcel thereof, with the appurtenances: To HAVE AND TO HOLD the above granted premises, with the appurtenances, unto the said party of the second part, the survivor or survivors, his and their heirs and assigns, to their own proper use and benefit, forever, THIS CONVEYANCE is intended as a Mortgage to secure the payment of the sum of _____ pounds, lawful money of Canada, in manner following, to Wit: (*here state the term or terms of payment*;) according to the condition of a certain Bond, or Note (*as the case may be*) bearing even date with these presents, executed by the said party of the first part, to the said party of the second part; and this Conveyance shall be void; if such payment be well and truly

truly made: And the said party of the first part, for himself, his heirs, executors, administrators and assigns; Doth covenant and agree to pay unto the said party of the second part, or the survivor or survivors, his or their assigns, the said sum of money, and interest, as hereinbefore mentioned, and as expressed in the condition of the said Bond; And it is hereby further agreed that if default shall be made in the payment of the said sum of money hereinbefore mentioned, or the interest that may grow due thereon, or of any part thereof, that then, and from thenceforth, it shall be lawful for the said party of the second part, the survivor or survivors, his or their assigns, to enter into and upon all and singular, the premises hereby granted, or intended so to be, with full power to sell and dispose of the same, or any portion thereof; and all right, title, benefit and equity of redemption of the said party of the first part, his heirs, executors, administrators or assigns, therein, at public auction, or by private sale, as the said party of the second part, the survivor or survivors, his or their assigns, may think advisable; providing there is one month's notice given in a newspaper published in the County wherein the Property is situate, describing the premises that are for sale, and notifying the party of the first part, or his heirs, or executors, of the same, to make and deliver to the purchaser or purchasers thereof; a good and sufficient deed, or deeds, of conveyance in the law, for the same, with the necessary covenants; and out of the money arising from such sale, to retain the principal and interest which shall be then due on the said bond or note, (*as the case may be*) together with the costs and charges of advertizing and sale of the said premises, rendering the overplus of the purchase money (*if any*) unto the said party of the first part, his heirs, executors, administrators, or assigns; which sale, to be made, shall be a perpetual bar forever, both in law and in equity, against the said party of the first part, his heirs, executors, administrators and assigns, and all and every other person or persons claiming, or to claim, the said premises, or any part thereof, by, from or under, him, them or any of them; **THE** said party of the first part hereby agrees to keep the said premises insured against loss by fire, and that he will assign the policy, and certificate thereof, to the said party of the second part, his heirs, executors, administrators or assigns, without delay.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
NICHOLAS HENDERSON.
HENRY WILLIAMS.

OLIVER BROWN.

[Seal.]

MORT

THIS

Lord on

der Sto

and Pr

Jones, c

ince af

the said

sum of

gain, sel

heirs, e

tract or

the Tow

of Cana

being co

concessi

ises this

Charles

given by

of part o

premises

appurten

AND FURT

to secure

of Canad

ents, with

the paym

the party

and assign

described

thereof, in

arising fr

gether wi

overplus

sale, to th

trators, or

IN WIT

hereunto

above wri

Signed, Se

in pre

Gu

Th

MOR

THIS IND
our Lord o

MORTGAGE DEED FOR PART OF PURCHASE MONEY.

MORTGAGE DEED FOR PART OF PURCHASE MONEY.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Alexander Stone, of the Township of , in the County of , and Province of Canada, farmer, of the first part; and Caleb Jones, of the City of , in the County of , and Province aforesaid, land agent, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of pounds, lawful money of Canada, Doth grant, bargain, sell and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns; All that certain tract or parcel of land and premises, situate, lying and being in the Township of , in the County of , and Province of Canada, containing by admeasurement acres of land, being composed of the east half of Lot number in the concession of the said Township of , being the same premises this day conveyed to the said Alexander Stone, by the said Charles Jones, and Susan Jones, his wife, and these presents are given by the said party of the first part, to secure the payment of part of the consideration money herein mentioned on the said premises; TOGETHER with all and singular the hereditaments and appurtenances, thereunto belonging, or in anywise appertaining: AND FURTHER THIS CONVEYANCE is only intended as a Mortgage to secure the payment of the sum of pounds, lawful money of Canada, in years from the day of the date of these presents, with annual interest; But in case default shall be made in the payment of the principal, or interest, as above provided, then the party of the second part, his heirs, executors, administrators and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale, to retain the principal and interest, Together with the costs and charges of making such sale; and the overplus (if any there be,) shall be paid by the party making such sale, to the party of the first part, his heirs, executors, administrators, or assigns, on demand.

IN WITNESS WHEREOF, I, the said party of the first part have hereunto set my hand and affixed my seal, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
GUSTAVUS STEBINS,
THOMAS HALE.

} ALEXANDER STONE. [Seal.]

MORTGAGE DEED BY HUSBAND AND WIFE.

With Insurance against Fire clause.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between John Russell,

Russell, and Adelaide Russell his wife, of the Town of _____, in the County of _____, of the Province of Canada, confectioner, of the first part; and Charles Wright, of the City of _____, in the County of _____, of said Province, merchant, of the second part, WITNESSETH: That the party of the first part, for and in consideration of the sum of _____ pounds, lawful money of Canada, to them in hand paid, the receipt whereof is hereby acknowledged, HAVE bargained, sold, aliened, released, conveyed and confirmed, and by these presents do bargain, sell, alien, release, convey and confirm, unto the said party of the second part, his heirs, executors, administrators and assigns, forever, All that certain (*here give description*;) TOGETHER, with all and singular the tenements, hereditaments and appurtenances, thereunto belonging, or in anywise appertaining; also all the estate, right, title, interest, Dower or right of dower, property, possession, claim and demand whatsoever, of the said party of the first part, of, in and to, the same, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof: TO HAVE AND TO HOLD the premises hereinbefore described, with the appurtenances, unto the said party of the second part, his heirs, executors, administrators and assigns, to his and their own proper use, benefit and behoof, forever: THIS CONVEYANCE is intended as a Mortgage to secure the payment of the sum of _____ pounds, lawful money of Canada, in six years from the day of the date of this conveyance, with interest, payable annually, according to the condition of a certain bond, or obligation, bearing even date herewith, executed by the said John Russell, to the said party of the second part; and these presents shall be void if such payment be made: BUT in case default shall be made in the payment of the principal, or interest, as hereinbefore provided, then the party of the second part, his heirs, executors, administrators and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law, and out of the money arising from such sale, to retain the said principal and interest, Together with the costs and charges, of making the sale; and if there is any overplus it shall be paid by the party making such sale, to the party of the first part; their heirs or assigns, on demand: And the said John Russell, for himself his heirs, executors and administrators, Doth Covenant and Agree to pay unto the said party of the second part, his heirs, executors, administrators or assigns, the aforesaid sum of money and interest as hereinbefore stated, and as expressed in the condition of the said bond: AND IT IS ALSO FURTHER AGREED, by and between the parties to these presents, that the party of the first part shall and will keep the premises insured against loss by fire, and that he will assign the policy, and certificate thereof, to the said party of the second part, his heirs, executors, administrators, or assigns; and in case of default

fault t
part, l
such in
the san
to the
these p
In V
hereun
first ab
Signed,
in

THIS
of our L
Hartman
of
of the f
Province
That the
of the
Canada, v
Doth gran
second p
assigns, A
and singu
belonging
intended

the day of
ing to the
may be,) d
to the said
void if suc
in the pay
then the p
trators and
above desc
part thereo
money rece
interest, tog
and if there
sale, to the

MORTGAGE DEED.

fault thereof, it shall be lawful for the said party of the second part, his heirs, executors, administrators and assigns, to effect such insurance, and the premium or premiums, paid for effecting the same, shall be a lien on the said mortgaged premises, added to the amount of the said Bond or obligation, and secured by these presents.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

LEWIS HAMMOND,

JOHN HENRY RICHARDS.

}

JOHN RUSSELL,

ADELAIDE RUSSELL. [Seal.]

MORTGAGE DEED.

Of Premises to be kept Insured against Fire.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred , between John Hartman, of the City of , in the County of , of the Province of Canada, carpenter, of the first part; and Henry Titus, of the said City and Province aforesaid, blacksmith, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of pounds, lawful money of Canada, well and truly paid by the said party of the second part, Doth grant, bargain, sell and confirm, unto the said party of the second part, and to his heirs, executors, administrators and assigns, All that (*here give full description*;) TOGETHER with all and singular the hereditaments and appurtenances, thereunto belonging, or in anywise appertaining: This Conveyance is intended as a Mortgage, to secure the payment of the sum of pounds, lawful money of Canada, in five years from the day of the date of these presents, with annual interest, according to the condition of a certain Note, (*or*) Bond, (*as the case may be*), dated this day, and executed by the said John Hartman, to the said party of the second part; and these presents shall be void if such payment be made: But in case default shall be made in the payment of the principal, or interest as above provided, then the party of the second part, his heirs, executors, administrators and assigns, are hereby empowered to sell the premises above described, with all and every the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money received from such sale, to retain the said principal and interest, together with all the costs and charges of making the sale; and if there is any overplus, it shall be paid by the party making such sale, to the party of the first part, his heirs, executors administrators,

tors, or assigns, on demand: The said party of the first part; Doth covenant and agree, to pay unto the party of the second part, his heirs, executors, administrators or assigns, the said sum of money and interest, as hereinbefore mentioned, and expressed in the condition of the said note, (or) bond (*as the case may be* :) AND IT IS ALSO FURTHER AGREED, by and between the parties to these presents, that the party of the first part shall and will keep the buildings erected, and to be erected, upon the lands hereby conveyed, insured against loss by fire, and that he will assign the policy, and certificate thereof, to the said party of the second part, his heirs, executors, administrators, or assigns; AND in case of default thereof, it shall be lawful for the said party of the second part, his heirs, executors, administrators and assigns, to effect such insurance, and the premium or premiums, paid for effecting the same, shall be a lien on the said mortgaged premises, added to the amount of the said Note or Bond, and secured by these presents.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

ERASTUS HALL,

JAMES DAVIS.

JOHN HARTMAN.

[Seal.]

MORTGAGE DEED, [Short Form.]

THIS INDENTURE, made the _____ day of _____, in the year of our Lord, one thousand eight hundred and _____, between Charles Dill, of the Town of _____, in the County of _____, of the Province of Canada, carpenter and joiner, of the first part; and Joel Sampson, of the Township of _____, in the County of _____, of said Province, yeoman, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds, lawful money, to him in hand duly paid, the receipt whereof is hereby acknowledged, Doth grant, bargain, sell and confirm, unto the said party of the second part, and to his heirs and assigns, all that certain (*here give full description*;) TOGETHER with all and singular the hereditaments and appurtenances, thereunto belonging, or in anywise appertaining: This Conveyance is intended as a Mortgage, to secure the payment of the sum of _____ pounds, in five years from the day of the date of these presents, with annual interest, according to the condition of a certain bond, dated this day, and executed by the said Charles Dill, to the said party of the second part; and these presents shall be void if such payment be made: But in case default shall be made in the payment of the principal, or interest as above provided, then

the said
tors and
above
part the
money
interest
and the
king su
executo

In W
hereunt
above w
Signed,
in
J

MORTG

Mortgag

THIS I
our Lord
Eben Sto

Canada,
Harrison,
strict afor
part, Wit
in consider
lawful mo
of the first
gained, sol
sell and co
and assign
all and sin
belonging,
the first pa
second part
first part, a
premises;
good right t
that I and
said party
against the
the reserva
in the origi
ANCE is inte
sum of

MORTGAGE DEED, WITH POWER OF SALE, (C. E.)

the said party of the second part, his heirs, executors, administrators and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances or any part thereof, in the manner prescribed by law; and out of the money arising from such sale, to retain the said principal and interest, together with the costs and charges of making such sale; and the over-plus, if any there be, shall be paid by the party making such sale, on demand, to the party of the first part, his heirs, executors, administrators, or assigns.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

HENRY TOBIAS,

JAMES W. HILL.

CHARLES DILL. [Seal]

MORTGAGE DEED, WITH POWER OF SALE, [C. E.]

Mortgage Deed, [Short Form.]

THIS INDENTURE, made the tenth day of May, in the year of our Lord one thousand eight hundred and fifty-four, between Eben Stowe, of the Town of _____, in the County of _____, and District of _____, of the Province of _____,

Canada, carpenter and joiner, of the first part; and William Harrison, of the Village of _____, in the County and District aforesaid, of the said Province, merchant, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds _____ shillings,

lawful money of Canada, the receipt whereof, I, the said party of the first part, hereby acknowledge, HAVE given, granted, bargained, sold and conveyed; and do hereby give, grant, bargain, sell and convey, unto the said party of the second part, his heirs and assigns, forever, [*here describe the premises;*] TOGETHER with all and singular, the hereditaments and appurtenances, thereunto belonging, or in anywise appertaining: AND I, the said party of the first part, do covenant to and with the said party of the second part, his heirs and assigns, that I, the said party of the first part, am lawfully seized, in fee simple, of the afore-granted premises; that they are free of all incumbrances: That I have good right to sell and convey the same, in manner aforesaid; and that I and my heirs will warrant and defend the same, to the said party of the second part, his heirs and assigns, forever, against the lawful claims of all persons; *Subject, nevertheless,* to the reservations, limitations, provisos and conditions expressed in the original grant thereof from the Crown: THIS CONVEYANCE is intended as a Mortgage, to secure the payment of the sum of _____ pounds _____ shillings, in _____ years from the _____ date

date of these presents, with annual interest, according to certain notes [or a bond, as the fact may be] dated this day, executed by the said Eben Stowe, to the said party of the second part: But, in case default shall be made in the payment of the principal, or interest, as above provided, then the said party of the second part, his heirs, executors, administrators and assigns, are hereby empowered to sell the premises above described, providing that they give one month's notice, in writing, previous to such sale, with all and every of such appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale, to retain the said principal and interest, together with the costs and charges; And the balance, if any, to be paid over to the party of the first part, his heirs, or assigns, on demand.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

WILLIAM THAIN,

OLIVER H. JONES.

EBEN STOWE. [Seal.]

NOTE—In a mortgage deed, may be inserted a proviso to keep the premises insured; as in the mortgage deed by husband and wife, on pages 112 and 113, in this work. Also a condition that the mortgagor may (or shall) occupy.

MORTGAGE DEED WITH DOWER, WITH POWER OF SALE.

With Dower.

THIS INDENTURE, made the tenth day of May, in the year of our Lord one thousand eight hundred and fifty-three, between Hazleton Roberts, of the City of Montreal, in the District of Montreal, of the Province of Canada, trader, of the first part; and Helen Roberts, wife of the said party of the first part, of the second part; and William Henderson of the Town of Cobourg, of said Province, gentleman, of the third part, WITNESSETH: THAT in consideration of the sum of five hundred and seventy five pounds, lawful money of Canada, to the said party of the first part this day lent, advanced and paid by the said party of the third part, the receipt whereof, I, the said party of the first part do hereby acknowledge: And have given, granted, bargained, sold, aliened, released, transferred, conveyed, assured and confirmed, and by these presents do grant, bargain, sell, alien, release, transfer, convey, assure and confirm, unto the said party of the third part, and to his heirs and assigns, ALL that certain parcel or tract of land and premises, situate, lying, and being in the Township of Dunham, in the County of Missisquoi, in the District of Montreal, of the said Province, containing by admeasurement two hundred acres of land be the same more or less,

MORTGAGE DEED WITH DOWER, WITH POWER OF SALE.

less, being composed of lot number eight in the , con-
cession of the said Township of Dunham ; Together with all the
houses, edifices, buildings, yards, gardens, orchards, ways, waters,
water-courses, trees, woods, fences, liberties, privileges, and ap-
purtenances whatsoever, to the said lands, hereditaments and
premises belonging, or in anywise appertaining : And all remain-
ders, reversions, yearly and other rents, issues and profits, of and
in the said lands, hereditaments and premises, and all the estate,
right, title, use, trust, property, possession, claim and demand
whatsoever, of the said party of the first part, of, in, or to the said
lands, hereditaments and premises : To HAVE AND TO HOLD the
said lands, tenements, and all and singular other the premises
hereby granted, sold and released, or intended so to be, with the
appurtenances, unto and to the use of the said party of the third
part, his heirs and assigns forever : *Subject nevertheless*, to the
reservations, limitations, *provisos* and conditions expressed in
the original grant thereof from the Crown : And THIS INDENTURE
FURTHER WITNESSETH ; that the said party of the second part,
with the privy and full approbation and consent of her said hus-
band, testified by his being one of the party to these presents, in
consideration of the premises, and also in consideration of the
further sum of five shillings, lawful money of the Province of
Canada aforesaid, To her by the said party of the third part in
hand well and truly paid, at or before the sealing and delivery
of these presents, the receipt whereof is hereby acknowledged,
HATH remised, released, and forever relinquished and quit-
ted claim, and by these presents doth remise, release, and forever
relinquish and quit-claim, unto the said party of the third part,
his heirs, executors, administrators and assigns, all Dower, and
all right and title thereto, which she the said party of the second
part, now hath or in the event of her surviving her said husband
can or may or could or might hereinafter in anywise have or
claim whatever at Law or otherwise howsoever, of, in, to, or out
of the lands, tenements, hereditaments and premises hereby con-
veyed, or hereinbefore mentioned, or intended so to be conveyed,
with the appurtenances of, in, to, or out of any part thereof :
PROVIDED ALWAYS, that if the said party of the first part, his heirs,
executors, or administrators, do, and shall pay unto the said party
of the third part, his heirs, executors, administrators, or assigns,
the full sum of five hundred and seventy five pounds, lawful
money of Canada, with interest for the same, in manner and at
the times following, that is to say, yearly payments : The first
payment of one hundred pounds with interest, payable on the
tenth day of May, eighteen hundred and fifty-four, The second
one hundred pounds with interest, payable on the tenth day of
May, eighteen hundred and fifty-five, The third one hundred
pounds with interest, payable on the tenth day of May, eighteen
hundred and fifty-six, The fourth one hundred pounds with inter-

est, payable the tenth day of May, eighteen hundred and fifty seven, The fifth one hundred pounds with interest, payable the tenth day of May, eighteen hundred and fifty-eight, The sixth and last payment being, seventy five pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-nine, Interest on all said payments, at six per cent per annum: AND IF ALL the said payments, are made without any default, or abatement whatsoever, then these presents shall cease and be void, to all intents and purposes whatsoever: And the said party of the first part, doth hereby for himself, his heirs, executors and administrators, covenant, promise and agree, to and with the said party of the third part, his heirs, executors, administrators and assigns, that he the said party of the first part, his heirs, executors, administrators, some or one of them, shall and will, well and truly pay, or cause to be paid, unto the said party of the third part, or his heirs, executors, administrators, or assigns, the said principal sum of five hundred and seventy five pounds, lawful money and interest, at the times, and in manner hereinbefore appointed, for payment thereof, without any deduction or abatement whatsoever, according to the true intent and meaning of these presents: AND ALSO, that the said party of the first part, now has in himself good right to grant, bargain, sell and convey the said lands, hereditaments and premises, unto the said party of the third part, his heirs and assigns, according to the true intent and meaning of these presents:

AND FURTHER, that it shall and may be lawful to and for the said party of the third part, his heirs and assigns, after default shall be made in payment of the said sum of Five hundred and seventy-five pounds and interest, contrary to the proviso herein contained, peaceably to enter into and upon the said lands, hereditaments and premises, and to hold and enjoy the same without any interruption or denial by the said party of the first part, or any other person whomsoever: AND that free and clear of and from all estates, titles, troubles, charges and incumbrances whatsoever: AND moreover that he the said party of the first part, and his heirs, and all persons whosoever, claiming any estate or interest in the premises, shall and will at all times hereafter, during the continuance of the said sum of five hundred and seventy-five pounds, or any part thereof, on this security, upon every reasonable request of the said party of the third part, his heirs, executors, administrators, or assigns, but at the costs and charges of the said party of the third part, his heirs, executors and administrators, make, execute, and perfect, all such further conveyances and assurances in the law whatsoever, for the further, better, or more perfectly granting, conveying, or otherwise assuring the said lands, hereditaments and premises, unto and to the use of the said party of the third part, his heirs and assigns; SUBJECT to the proviso aforesaid, or to the equity thereof, and for

the en
ing th
presen
tors, a
the la
to be
tween
first p
the sa
trators,
pounds
ing of
and th
admini
payme
part, hi
them, a
Provinc
princip
have el
out suc
payment
and inte
of these
be law
and assi
said par
possessi
receive
out of p
of, as he
the said
nances,
to conve
or purch
he, she o
and agre
tors, ad
possesse
the rents
ceeds th
thereout
attend th
together
and shall
part, his
principal
much the

MORTGAGE DEED WITH DOWER, WITH POWER OF SALE.

the ends, intents and purposes, herein expressed, of and concerning the same, according to the true intent and meaning of these presents, as by the said party of the third part, his heirs, executors, administrators or assigns, or any of their counsel learned in the law, shall be reasonably devised and required, and tendered to be made: And it is further declared and agreed by and between the parties to these presents; that if the said party of the first part, his heirs, executors, or administrators, shall not pay to the said party of the third part, his heirs, executors, or administrators, or assigns, the said sum of five hundred and seventy-five pounds and interest, according to the true intent and meaning of the proviso hereinbefore in that behalf contained, and the said party of the third part, his heirs, executors, administrators and assigns, shall after the time limited for such payment has expired, have given to the said party of the first part, his heirs, executors, or administrators, or have left for him or them, at his or their last or most usual place of abode, in this Province, notice in writing, demanding payment of the said principal money and interest, and three calendar months shall have elapsed from the delivery or leaving of such notice, without such payment having been made (of which latter default in payment, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence.) it shall and may be lawful to and for the said party of the third part, his heirs and assigns, without any further consent or concurrence of the said party of the first part, his heirs and assigns, to enter into possession of the said lands, hereditaments and premises, and to receive and take the rents and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, as he shall think fit, and also to sell and absolutely dispose of the said lands, hereditaments and premises, with the appurtenances, in such way and manner as to him shall seem meet, and to convey and assure the same, when so sold, unto the purchaser or purchasers thereof, his, her, and their heirs and assigns, or as he, she or they shall direct and appoint: And it is hereby declared and agreed, that the said party of the third part, his heirs, executors, administrators and assigns, shall stand seized, and be possessed of the said lands, tenements and hereditaments, and of the rents and profits thereof until sale, and after sale, of the proceeds therefrom arising, upon trust in the first place, to deduct thereout all expenses which may be necessarily incurred in and attend the execution of the trusts and powers hereby created, together with interest for the same, and after payment thereof do and shall retain and pay, unto and for the said party of the third part, his heirs, executors, administrators, or assigns, the said principal sum of five hundred and seventy-five pounds, or so much thereof; as shall then remain unsatisfied, and all interest

then due, and in arrear, in respect thereof, and after such payment in trust, to pay or transfer the surplus (if any remains) of said rents and profits, or proceeds of the said sale, unto the said party of the first part, his heirs, executors, administrators, or assigns, and also to re-convey and assure such part of the said lands, hereditaments and premises as shall remain unsold, for any of the purposes aforesaid, unto the said party of the first part, or his heirs and assigns, or as he shall direct or appoint: AND it is hereby further declared and agreed, that the receipts of the said party of the third part, his heirs and assigns, shall be good and sufficient discharges for all monies therein expressed to have been received, and that the person or persons paying the said sums, or any monies and taking such receipt, shall not afterwards be required to see to the application, nor be answerable or accountable for their mis-application or non-application of the same: AND the said party of the third part does hereby, for himself, his heirs, executors and administrators, Covenant, promise and agree, to and with the said party of the first part, his heirs and assigns that no sale, or notice of sale of the said lands, hereditaments and premises, shall be made or given, or any lease made, or any means taken for obtaining possession thereof, by the said party of the third part, until such time as Three Calendar months' notice, in writing, as aforesaid, shall have been given to the said party of the first part, his heirs, executors, administrators, or assigns, or have been left at his or their last or most usual place of abode, in this Province, demanding payment of the principal and interest monies, which at the end of that time, shall be due, and the said party of the first part, his heirs, executors, administrators and assigns, shall have made default in payment of the same, at the time or times hereinbefore stated: AND ALSO, that he the said party of the third part, his heirs and assigns, shall and will, at the expense of the said party of the first part, his heirs, executors, administrators and assigns, at any time before such Sale or Sales shall take place, on payment or tender by the said party of the first part, his heirs, executors, or administrators, of the said principal sum of five hundred and seventy-five pounds and interest, which, at the time of such tender, shall be due and owing upon, or by virtue of this security, with all costs as aforesaid, re-convey and re-assure the said lands, hereditaments and premises, or such parts thereof as shall then remain unsold, with the appurtenances, unto the said party of the first part, his heirs, or assigns, or as he or they shall direct or appoint, free from all incumbrances, to be made or done by the said party of the third part, his heirs or assigns, in the meantime: PROVIDED ALWAYS, that until default shall be made in payment of the said sum of five hundred and seventy-five pounds and interest, after notice in writing, demanding payment of the same, as hereinbefore provided, it shall be lawful for the said party of the first part,

part, h
lands, h
out an
or by t
person
them, c
of the t
shall no
he or th
for any
said est
save an
his or th
In W
unto set
above w
Signed,
in p

Recer
five hun
being the

Witness,

Memoria

A MEN
Mortgag
one thou
Hazleton
Montreal
Helen R
second pa
of said P
said party
of five hu
vince of C
third part
gain, sell,
to the said
certain pa
being in th
in the Dis
admeasur

MEMORIAL WITH DOWER.

part, his heirs and assigns, to hold, occupy and enjoy the said lands, hereditaments and premises, with the appurtenances, without any molestation, hindrance, interruption or denial, of, from or by the said party of the third part, his heirs or assigns, or any person claiming by, from, through, under or in trust for him, them, or either of them: PROVIDED lastly, that he the said party of the third part, his heirs, executors, administrators and assigns; shall not be answerable or accountable for any more monies than he or they shall actually receive by virtue of these presents, nor for any misfortune, loss or damage, which may happen to the said estate and premises, in the execution of trusts aforesaid, save and except the same shall happen by or in consequence of his or their own wilful neglect or default.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

EBEN DOWNS,

LEWIS MACKAY.

} HAZLETON ROBERTS, [Seal.]
HELEN ROBERTS, [Seal.]
WM. HENDERSON. [Seal.]

RECEIVED, on the day of the date of this INDENTURE, the sum of five hundred and seventy-five pounds, lawful money of Canada, being the full consideration therein mentioned.

Witness,

EBEN DOWNS,

LEWIS MACKAY.

} HAZLETON ROBERTS, [Seal.]

MEMORIAL WITH DOWER.

Memorial of Deed with Dower, with Power of Sale.

A MEMORIAL of an Indenture of Bargain and Sale, by way of Mortgage, dated the tenth day of May, in the year of our Lord, one thousand eight hundred and fifty-three, and made between Hazleton Roberts, of the City of Montreal, in the District of Montreal, of the Province of Canada, trader, of the first part; Helen Roberts, wife of the said party of the first part, of the second part; and William Henderson, of the Town of Cobourg, of said Province, gentleman, of the third part, WHEREBY: the said party of the first part, for and in consideration of the sum of five hundred and seventy pounds, lawful money of the Province of Canada, to him in hand paid by the said party of the third part, the receipt whereof is acknowledged, did grant, bargain, sell, alien, release, transfer, convey, assure and confirm unto the said party of the third part, his heirs and assigns, All that certain parcel or tract of land and premises, situate, lying and being in the Township of Dunham, in the County of Missisquoi, in the District of Montreal: of the said Province; containing by admeasurement two hundred acres of land, be the same more or less,

less, being composed of lot number eight in the concession of the said Township of Dunham, TOGETHER with all the houses, edifices, buildings, yards, gardens, orchards, ways, water-courses, trees, woods, fences, liberties, privileges and appurtenances whatsoever, to the said hereditaments and premises belonging, or in anywise appertaining; And all remainders, reversions, yearly and other rents, issues and profits thereof; And all the estate, right, title, use, trust, property, possession, claim and demand whatsoever; of the said party of the first part, of, in or to the same: To HAVE AND TO HOLD the said lands, tenements and other the premises, with the appurtenances, unto and to the use of the said party of the third part, his heirs, executors, administrators and assigns, forever; And the said party of the second part, in consideration of five shillings, to her in hand paid by the said party of the third part, hath remised, released and forever relinquished her Dower in the said premises, unto him the said party of the third part, his heirs, executors, administrators and assigns, WHICH said INDENTURE is subject to a proviso therein contained, for making the same void; upon payment of the sum of five hundred and seventy-five pounds, lawful money of Canada, with interest thereon, after the rate of six per cent. per annum, on the days and times and in manner following, that is to say, yearly payments, The first, payment of one hundred pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-four, The second, payment of one hundred pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-five, The third, payment of one hundred pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-six, The fourth, payment of one hundred pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-seven, The fifth, payment of one hundred pounds with interest, payable on the tenth day of May, eighteen hundred and fifty-eight, The sixth and last payment, seventy-five pounds with interest, to be paid on the tenth day of May, eighteen hundred and fifty-nine: And also, to certain powers, declarations and trusts, for the leasing and sale of the said lands, hereditaments and premises, by the said party of the third part, and for the application of the rents and proceeds of such leasing or sale: And is witnessed by Eben Downs, and Lewis Mackay of Montreal, in the District of Montreal.

AND this MEMORIAL thereof; is required to be registered by me, the said grantee therein named.

WITNESS my hand and Seal, this tenth day of May, in the year of our Lord one thousand eight hundred and fifty-three.
Signed and Sealed, in

presence of
EBEN DOWNS,
LEWIS MACKAY.

WILLIAM HENDERSON.

[Seal.]

District
T
within
present
relates,
in name
ness to
nent, al
therein
said Me
subscrib
ted at th
Sworn b
said
ten

A Com
and for
[For C

NOTICE

WHERE
of
date of th
teenth da
Town of
Province
of
in the off
the Regis
vol.
23rd day
the mortg
mortgage
THEREFOR
power of
such case
mortgage
the mortg
Court Ho
or City of
the

NOTICE OF SALE, BY ADVERTISEMENT ON FORECLOSURE, ETC.

The Affidavit.

District of Montreal, } Eben Downs, of Montreal, in the said
To Wit: } District of Montreal, merchant, in the
within Memorial named, maketh Oath and saith, that he was
present, and did see the Indenture to which the said Memorial
relates, duly executed, signed, sealed and delivered by the there-
in named Hazleton Roberts; And that he is a subscribing Wit-
ness to the execution of the said Indenture; that he, this depo-
nent, also saw the said Memorial duly signed and sealed, by the
therein named William Henderson, for registry thereof, Which
said Memorial was attested by him, this deponent, and another
subscribing Witness, and that both said Instruments were execu-
ted at the City of Montreal, in said District of Montreal.

Sworn before me, at Montreal, in
said District of Montreal, this }
tenth day of May, 1853. } EBEN DOWNS.
JAMES SMITH,

A Commissioner for taking affidavits in the Queen's Bench, in
and for the said
[For C. W. substitute County for District.]

NOTICE OF SALE, BY ADVERTISEMENT ON FORE-
CLOSURE OF MORTGAGE.

MORTGAGE SALE.

WHEREAS default has been made in the payment of the sum
of _____ pounds, lawful money, which is now due at the
date of this notice, on a certain mortgage bearing date the six-
teenth day of April, 1850, executed by James Hammond, of the
Town of _____, in the County of _____, of the
Province of Canada, gentleman, to Jacob West, of the City
of _____, in the County of _____, and Registered
in the office of the Clerk of the County of _____, or in
the Registry Office, for the said County [as the case may be] in
vol. _____, number 29 of Mortgages, page 117, registered on the
23rd day of April, A.D. 1850, at twelve o'clock, noon: [in case
the mortgage is foreclosed by an assignee, insert here:] the said
mortgage has been duly assigned to the subscriber:] Now
THEREFORE, notice is hereby given, that, in pursuance of the
power of sale contained in the said Mortgage, and of the law in
such case made and provided, the premises described in said
mortgage to wit: all and singular [here give full description of
the mortgaged premises:] will be sold at public auction, at the
Court House [or as the case may be] in the Town of _____,
or City of _____, in the County of _____, on the
_____ day of _____, next, at _____ of the clock, in
the _____ noon.

Dated at the Town of _____, [or as the case may be] this
day of _____, 1850.
JACOB WEST, Mortgagee,
[or Assignee.]

CHATTEL MORTGAGE AS SECURITY FOR MONEY.

THIS INDENTURE, made the second day of June, in the year of our Lord one thousand eight hundred and fifty-four, between A. B., of the City of Quebec, in the District of Quebec, of the Province of Canada, trader, of the first part; and C. D., of Three Rivers, in the District of Three Rivers of said Province, gentleman, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the sum of _____ pounds shillings, lawful money, to him in hand duly paid, the receipt whereof is hereby acknowledged, hath sold, and by these presents, doth grant, bargain and sell, unto the said party of the second part, the following described goods, chattels, and property, (*describe them particularly, or refer to them in the Schedule annexed marked A.*) now in my possession: TO HAVE AND TO HOLD all and singular, the said goods, chattels, and property; unto the said party of the second part, his heirs, executors, administrators and assigns, to his and their sole use forever: AND I, the said party of the first part, for myself, my heirs, executors, administrators and assigns, Do Covenant, promise, and agree, to and with the said party of the second part, his heirs, executors, administrators and assigns, that I am lawfully possessed of the said goods, chattels, and property, as aforesaid; that the same are free from all incumbrances; and that I, the said party of the first part, my heirs, executors, administrators and assigns, will warrant and defend the same, to the said party of the second part, his heirs, executors, administrators and assigns, against the lawful claims and demands of all persons: Provided nevertheless, that if I, the said party of the first part, my heirs, executors, administrators, or assigns, shall well and truly pay, or cause to be paid, to the said party of the second part, his heirs, executors, administrators, or assigns, the sum of twenty pounds ten shillings, currency, with interest, on or before the expiration of one year from the date hereof; and the additional sum of thirty pounds, currency, with interest, on the _____ day of _____, 18____; Which payments, if duly made, will render this conveyance void; otherwise to remain in full force, and virtue.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

S. WILLIAMS,
JOHN SLOAN.

A. B.

[Seal.]

N. B. The Mortgage Deed or a true copy to be Filed.

CHATTEL MORTGAGE TO SECURE A DEBT.

CHATTEL MORTGAGE TO SECURE A DEBT.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between John Richmond, of the Town of , in the County of , of the Province of Canada, merchant, of the first part; and Henry Childs, of the same place, gentleman, of the second part, WITNESSETH: That the said party of the first part, Doth hereby acknowledge himself indebted to the said party of the second part in the sum of seventy pounds, lawful money of Canada, and for the better securing the payment of the same, Hath sold, and by these presents, doth grant, bargain and sell, unto the said party of the second part, the following described goods, chattels and property, [*here give full description; or refer to them in the Schedule annexed Marked A;*] now in my possession: TO HAVE AND TO HOLD all and singular, the said goods, chattels and property aforesaid, together with the appurtenances, all the estate, title and interest, of the said party of the first part therein; unto the said party of the second part, his heirs, executors, administrators and assigns, forever: THIS CONVEYANCE is intended as a Security for the punctual payment of the sum of seventy pounds, with interest, payable as follows:— thirty-five pounds, with interest, in one year, and thirty-five pounds, with interest, in two years, from the date of these presents; Which payments, if punctually made, will render this conveyance void; otherwise to remain in full force and virtue: AND LASTLY, the said party of the second part, and his heirs, executors, administrators and assigns, are hereby authorized, for further security, to take the said goods, chattels and property, into his or their possession, at any time he or they may think proper so to do for their own safety.

IN WITNESS WHEREOF, the said party of the first part hath hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of

CHARLES WEST,

HARRISON LEWIS.

} JOHN RICHMOND. [Seal.]

CHATTEL MORTGAGE TO SECURE ENDORSER.

THIS INDENTURE, made the day of , in the year of our Lord one thousand eight hundred and , between Adam Bates, of the City of Toronto, in the County of York, and Province of Canada, grocer, of the first part; and Samuel Tobias, of the Town of Albion, in the County of , of said Province, merchant, of the second part, WITNESSETH: That the said party of the first part, for and in consideration of the

the sum of _____ pounds, to him duly paid, Hath sold, and by these presents, doth grant and convey to the said party of the second part, and his heirs, executors, administrators and assigns, the following described goods, chattels and property, [*here give full description; or refer to them in the Schedule annexed marked A;*] now in my possession: To HAVE AND TO HOLD all and singular, the said goods, chattels and property aforesaid, Together with the appurtenances, all the estate, title and interest of the said party of the first part therein; unto the said party of the second part, his heirs, executors, administrators and assigns, forever: PROVIDED, NEVERTHELESS, that if the said party of the first part shall well and truly pay or cause to be paid at maturity, the full amount, principal and interest of a certain promissory note, executed by him, and endorsed by the said party of the second part, for the sum of _____ pounds, currency, bearing even date with these presents, payable six months from date, and now held by Abel Beecher, of the City of _____, in the County and Province aforesaid: THEN THIS CONVEYANCE shall be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the said party of the first part hath hereunto set his hand and affixed his seal, the day and year first above written.

Signed, Sealed and Delivered,

in presence of
PETER PINDER,
JAMES BROOKS.

OLIVER JONES. [Seal.]

[See the two affidavits annexed that are required to a Chattel Mortgage.]

THE TWO AFFIDAVITS REQUIRED TO A CHATTEL MORTGAGE.

CANADA,
County of York,
To wit:

ADAM BATES of the City of Toronto, in the said County of York, the Mortgagee of the within Bill of Sale by way of Mortgage named, maketh oath and saith that Charles Dunbar, of Albion, in the County of _____, the Mortgagor in the annexed Bill of Sale by way of Mortgage named, is justly and truly indebted to him this deponent the Mortgagee therein named, in the sum of _____ pounds _____ shillings, lawful money of Canada, That the said Bill of Sale, by way of Mortgage, was executed in good faith, and for the express purpose of securing the payment of the money so justly due as aforesaid, and not for the purpose of protecting the goods and chattels mentioned in the said Bill of Sale by way of Mortgage against the Creditors of the said Charles Dunbar, the Mortgagor therein named.

126

SWORN

Sworn
City of
said Co
this
A. D. 1

A C

Coun
T

present,
Mortgag
and Ada
Holden,
is of the

SWORN
City of T
said Cou
this
A. D. 18

A C
Bench, in
N. B. I
requiring
Cap. 74,
1850, on p

"A Bo
himself, hi
to be paid
condition
which is p
The obli
livers the l
becomes b
It is usu
in the obli
amount of
It is a g
obligor, mo
"for a mar
understood

RESPECTING BONDS.

Sworn before me at the
City of Toronto, in the
said County of York,
this day of
A. D. 1854.

ADAM BATES.

JOHN JONES,

A Commissioner for taking affidavits in the Queen's
Bench, in and for the said County of York.

CANADA,
County of York.

Henry Holden, of the City of Toron-
to, in the said County of York, maketh
oath and saith that he was personally
present, and did see the annexed Bill of Sale by way of
Mortgage duly signed, sealed, and delivered by Charles Dunbar
and Adam Bates, the parties thereto and that the name Henry
Holden, set and subscribed as a Witness to the execution thereof,
is of the proper handwriting of him, this deponent.

Sworn before me at the
City of Toronto in the
said County of York,
this day of
A. D. 1854.

HENRY HOLDEN.

JOHN JONES,

A Commissioner for taking affidavits in the Queen's
Bench, in and for the said County of York.

N. B. Register your Deeds and Memorials. See the Act,
requiring Mortgages of Personal Property to be Filed, 12 Vict.,
Cap. 74, 1849, and the Amendment 13 & 14 Vict., Cap. 62,
1850, on pages 464 to 467 in this work.

RESPECTING BONDS.

"A Bond or obligation is a deed whereby the obligor binds
himself, his heirs, executors and administrators, to pay or cause
to be paid, a certain sum of money at a day appointed, with a
condition to declare the same void; on due performance, and
which is properly a money bond."

The obligor is the party bound, and who signs, seals, and de-
livers the bond. The obligee is the party to whom the obligor
becomes bound.

It is usual to insert double the amount of money to be secured
in the obligation; that is to say, the penalty is made double the
amount of the condition.

It is a general rule, that the obligee cannot collect from the
obligor, more than the sum named as the penalty at any rate;
"for a man can have no more than his debt, and the penalty is
understood to be the utmost of his claim."

The costs, however, can be collected, over and above the amount of the penalty. If then the obligee cannot collect of the obligor, any more than the amount of the penalty; it is desirable that such penalty should be sufficiently large to cover all contingencies.

A BOND, USUAL FORM, [C. E.]

KNOW ALL MEN BY THESE PRESENTS: THAT I, Charles Miller of the Town of Chatham, in the District of Montreal, of the Province of Canada, gentleman, of the first part; am held and firmly bound, unto William Hall, of the City of Kingston, in the County of Frontenac, of said Province, builder, of the second part, in the sum of one hundred and thirty-one pounds, lawful money of the Province of Canada, To be paid to the said party of the second part, his heirs, executors, administrators, or assigns; for which payment well and truly to be made, I, the said party of the first part, bind myself, my heirs, executors, and administrators, (jointly and severally if more than one obligor) firmly by these presents. Sealed with my Seal, dated this nineteenth day of May, one thousand eight hundred and fifty-four.

THE Condition of the above obligation is such; That if the above bounden Charles Miller, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above-named William Hall, or to his certain attorney, his heirs, executors, administrators, or assigns, the just and full sum of sixty-five pounds ten shillings, currency, in one month, (or one year after the date of this Bond, *as the fact may be*), with interest, at the rate of six per cent. per annum, payable quarter-yearly (or half-yearly or yearly, *as the agreement may be*) to Wit: on the nineteenth days of August, November, February and May, in each year, or on any days as the parties may agree, then the above obligation to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,

in presence of

JAMES BROWN,

WELLINGTON H. RICHMOND.

CHARLES MILLER.

[Seal]

COMMON BOND, WITH CONDITION.

KNOW ALL MEN BY THESE PRESENTS: That I, Peter Jones, of the City of _____, in the County of _____, of the Province of Canada, merchant, am held and firmly bound, unto Charles Harrison, of the said City, carpenter, in the sum of one hundred and fifty pounds, lawful money of Canada, To be paid to the said Charles Harrison, his heirs, executors, administrators, or assigns; for which payment, well and truly to be

made,

made, I
firmly b
Sealed
one thou

THE
above b
tors, sha
named C
assigns,
equal a
interest,
payment
remain in
Signed, S
in p
C
D

KNOW
the City o
Canada, n
of the said
lawful mo
his heirs,
ment, well
tors and a
Sealed with
sand eight

THE CON
bounden P
next, or, in
said Peter
hereinafter
viding such
or, if within
be of full a
reasonable r
Allan, his h
oute and da
of Conveyan
simple, free
ing describe
[or that cert
situate, lying
number

BOND TO EXECUTE A CONVEYANCE.

made, I bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed with my seal, Dated this day of
one thousand eight hundred and fifty-

THE Condition of this obligation is such; That if the above bounden Peter Jones, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above named Charles Harrison, his heirs, executors, administrators, or assigns, the just and full sum of seventy-five pounds, in three equal annual payments, from the date hereof, with annual interest, on the whole sum remaining unpaid, at the time of each payment; then the above obligation is to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,

in presence of
CHARLES WOOD,
DANIEL HALL.

PETER JONES. [Seal.]

BOND TO EXECUTE A CONVEYANCE.

KNOW ALL MEN BY THESE PRESENTS: That I, Peter Jones, of the City of , in the County of , of the Province of Canada, merchant, am held and firmly bound, unto James Allan, of the said City, gentleman, in the sum of two hundred pounds, lawful money of Canada, To be paid to the said James Allan, his heirs, executors, administrators, or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed with my seal, Dated this day of , one thousand eight hundred and fifty-

THE Condition of this obligation is such; That if the above bounden Peter Jones, on or before the day of next, or, in case of his death before that time, the heirs of the said Peter Jones, shall execute the conveyance of the property hereinafter described, within two months after his decease, (providing such heirs shall then be of full age of twenty-one years, or, if within age, then within two months after such heirs shall be of full age of twenty-one years,) shall and will do, upon the reasonable request, and at the cost and charge of the said James Allan, his heirs, executors, administrators, or assigns, make, execute and deliver, or cause so to be, a good and sufficient Deed of Conveyance in the law with all the usual covenants, in fee simple, free from all incumbrances, whatsoever; The following described premises, to Wit: All that certain piece or parcel [or that certain lot of land with the buildings thereon erected, situate, lying and being, in the Town of , known as number , on the south side of street,] then the above obligation

obligation to be void ; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
HENRY SAMPSON,
JOHN WALKER.

PETER JONES. [Seal.]

BOND GIVEN BY TWO PERSONS.

KNOW ALL MEN BY THESE PRESENTS: That We, Charles Patton and Lewis Kay, of the Township of _____, in the County of _____, of the Province of Canada, yeoman, are held and firmly bound, unto Andrew Robinson, merchant, of the Village of _____, in the said County of _____, and Province aforesaid, in the sum of seven hundred and fifty pounds, lawful money of Canada, To be paid to the said Andrew Robinson, his heirs, executors, administrators, or assigns ; for which payment, well and truly to be made, We bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.
Sealed with our seals, Dated this _____ day of _____, one thousand eight hundred and fifty-_____.

THE Condition of this obligation is such ; That if the above bounden Charles Patton and Lewis Kay, or either of them, or their, or either of their heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above named Andrew Robinson, merchant, of the Village of _____, in the said County of _____, and Province aforesaid, The just and full sum of three hundred and seventy-five pounds, in three equal annual payments, from the date hereof ; with annual interest, then the above obligation to be void ; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
JOHN PATTERSON,
WILLIAM RICE.

CHARLES PATTON, [Seal.]
LEWIS KAY. [Seal.]

BOND FROM AN OFFICER OF A BANK, OR COMPANY.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Ross, of the City of _____, in the County of _____, of the Province of Canada, gentleman, am held and firmly bound, unto the Bank of _____, [or Trust and Loan Company, as the case may be ;] in the sum of three hundred pounds, lawful money of Canada, To be paid to the said Bank of _____, [or Trust and Loan Company, as the case may be,] or assigns ; for which payment, well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed
thous
We
and a
may
reason
other
come
obliga
execu
upon
said C
just
and ch
Cashie
will pa
duly a
of mon
be in h
and if
faithful
the cap
during
void ; o
Signed,

KNOW
the City
Province
unto the
the City
the sum
da, To b
case may
well and
and adm
Sealed w
thousand
THE C
above bo
trators, s
above na
title, or a

BOND TO A CORPORATION, OR COMPANY.

Sealed with my seal, Dated this day of , one thousand eight hundred and fifty-

WHEREAS: The above bounden Charles Ross has been chosen and appointed first Cashier, [or Teller or Treasurer, *as the case may be*] of the Trust and Loan Company; [or Bank of;] by reason whereof divers sums of money, goods and chattels, and other things, the property of the said Company, [or, Bank,] will come into his hands: Now THEREFORE; The Condition of this obligation is such; That if the said Charles Ross, his heirs, executors, or administrators, at the expiration of his said office, upon request to him or them made, shall make or give unto the said Company, [or Bank,] or their agent, or lawful Attorney, a just and true account of all such sum or sums of money, goods and chattels, and other property, as have come into his hands, as Cashier, [or Teller; or Treasurer,] as aforesaid, and shall and will pay and deliver, to his successor in office, or to any other person duly authorized to receive the same, all such sums or balances of money, goods and chattels, and all other things, which shall be in his hands, and belonging to the said Company; [or Bank;] and if the said Charles Ross shall in all things, honestly and faithfully, well and truly, serve the said Company, [or Bank,] in the capacity of Cashier, [or, Teller; or Treasurer,] as aforesaid, during his continuance in office, then the above obligation to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,

in presence of
EDWARD HOLLAND,
LEWIS TORRANCE.

} CHARLES ROSS. [Seal.]

BOND TO A CORPORATION, OR COMPANY.

KNOW ALL MEN BY THESE PRESENTS: That I, Peter Davidson, of the City of , in the County of , of the Province of Canada, general merchant, am held and firmly bound, unto the [here the name of the Corporation or Company;] of the the City of , in the County and Province aforesaid, in the sum of two hundred and ten pounds, lawful money of Canada, To be paid to the said Corporation [or Company or, *or as the case may be*;] or their successors, or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, firmly by these presents.

Sealed with my seal, Dated this day of , one thousand eight hundred and fifty-

THE Condition of this obligation is such; That if the above bounden Peter Davidson, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above named Corporation of , [or Company, give their title, *or as the case may be*;] or their successors or assigns, the just

just and full sum of, one hundred and five pounds, in one year from the date hereof; without interest, then the above obligation to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,

in presence of
SANFORD JONES,
CHARLES SHAW.

} PETER DAVIDSON. [Seal.]

BOND TO EXECUTORS.

KNOW ALL MEN BY THESE PRESENTS: That I, Andrew Titus, of the Village of _____, in the County of _____, of the Province of Canada, contractor, am held and firmly bound, unto Caleb Turnbull and Oliver Richmond, of the Village of _____, in the County of _____, of the said Province, executors of the last will and testament of Henry Goodson, deceased, late of the said Village of _____, in the County and Province aforesaid, in the sum of five hundred pounds, lawful money of Canada, To be paid to the said Caleb Turnbull and Oliver Richmond, executors as aforesaid, the survivors, or survivor, or his, or their assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents. Sealed with my seal, Dated this _____ day of _____, one thousand eight hundred and _____

THE Condition of this obligation is such; That if the above bounden Andrew Titus, his heirs, executors, or administrators, shall well and truly pay, or cause to be paid, unto the above named Caleb Turnbull, and Oliver Richmond, executors as aforesaid, the survivors, or survivor, or his, or their assigns; The just and full sum of two hundred and fifty pounds, payable in one year, from the date hereof; with lawful interest, then the above obligation to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
EDWARD BRUCE,
GEORGE GREY.

} ANDREW TITUS. [Seal.]

LEGATEE'S BOND TO EXECUTORS.

KNOW ALL MEN BY THESE PRESENTS: That We, Alfred Goodson and Henry Stanton, of the City of _____, in the County of _____, of the Province of Canada, merchants, are held and firmly bound, unto Caleb Turnbull and Oliver Richmond, of the Village of _____, in the County of _____, of the said Province, executors of the last will and testament of Henry Goodson, deceased, late of the Village of _____, in the County of _____, of the Province aforesaid, in the sum of eight hundred and twenty-four pounds, lawful money of Canada, To be paid

paid to
as afore
for whic
selves, o
jointly a
Sealed v
thousan

WHERE
Henry C
pounds,
been pai
mond, ex

The C
against t
named, s
the debts
cies, or n
agrees to
thereof;
necessary
tional par
and charg
Goodson;
be revoke
Goodson s
est, to the
ecutors, ad
Signed, Se
in pre
ABE
JAM

KNOW A
Eben Platt
the County
are held an
of the Cour
lawful mon
heirs, execu
well and tr
our heirs, e
firmly by th
Sealed with
the year of
The Cond
bounden He

BAIL BOND TO A SHERIFF.

paid to the said Caleb Turnbull and Oliver Richmond, executors, as aforesaid, the survivors, or survivor, or his, or their assigns, for which payment, well and truly to be made, We bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, Dated this day of , one thousand eight hundred and fifty-

WHEREAS : In and by the last will and testament of the said Henry Goodson, deceased, a legacy of two hundred and six pounds, is bequeathed to his son, Alfred Goodson, which has been paid to him by the said Caleb Turnbull and Oliver Richmond, executors as aforesaid :

The Condition of this obligation is such ; That if any debts against the deceased, late of the Village of , above named, shall duly appear, and there being no other assets to pay the debts, and if there shall be no other assets to pay other legacies, or not sufficient, that then the said Alfred Goodson, hereby agrees to refund the legacy so paid, or such rateable proportion thereof ; with the other legatees of the deceased, as may be necessary for the payment of such debts, and the proportional parts of other legatees, if any there be, and all the costs and charges incurred by reason of the payment of the said Alfred Goodson ; and that if the probate of the will of the said deceased be revoked, or the will declared void ; then the said Alfred Goodson shall refund the whole of the legacy, with lawful interest, to the said Caleb Turnbull and Oliver Richmond, their executors, administrators, or assigns.

Signed, Sealed and Delivered,

in presence of
ABEL JARVIS,
JAMES KING.

} ALFRED GOODSON, [Seal.]
HENRY STANTON. [Seal.]

BAIL BOND TO A SHERIFF.

KNOW ALL MEN BY THESE PRESENTS: That We, Henry Hall, Eben Platt, and Charles Mathewson, of the Town of , in the County of , of the Province of Canada, merchants, are held and firmly bound, unto Henry Johnson, Esquire, Sheriff of the County of , in the sum of two hundred pounds, lawful money of Canada, To be paid unto the said Sheriff, his heirs, executors, administrators, or assigns ; for which payment well and truly to be made, We bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, Dated this day of , in the year of our Lord one thousand eight hundred and fifty-

THE Condition of this obligation is such ; That if the above bounden Henry Hall, Defendant, shall appear in a certain action

now pending in the County Court, to be held at , in and
for the County of , on the first day of Term,
one thousand eight hundred and fifty- , wherein Oliver
Daniels is Plaintiff in the said cause, (that being the return day
of writ;) then the above obligation to be void; otherwise to
remain in full force and virtue.
Signed, Sealed and Delivered, } HENRY HALL, [Seal.]
in presence of } EBEN PLATT, [Seal.]
CAMERON AINSWORTH, } CHARLES MATHEWSON. [Seal.]
PETER DAILY.

INDEMNITY BOND TO A SHERIFF.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Hall, of
the Town of , in the County of , of the Province
of Canada, merchant, am held and firmly bound, unto Henry
Johnson, Esquire, Sheriff of the County of , in the sum
of pounds, lawful money of Canada, To be paid unto the
said Sheriff, his heirs, executors, administrators, or assigns; for
which payment, well and truly to be made, We bind ourselves, our
and each of our heirs, executors and administrators, jointly and
severally, firmly by these presents.

Sealed with our seals, Dated this day of , in the
year of our Lord one thousand eight hundred and fifty- .

WHEREAS the above bounden Henry Hall, did obtain a judg-
ment in the County Court of the County of , held at
in and for the said County, on the day of , A.D.,
1854, against Peter Howland, trader, of said Town of
for the sum of pounds, damages and costs, whereupon
execution has been issued; out of the said County Court, com-
manding me the said Sheriff that of the goods and chattels of
the said Peter Howland, I should cause to be made the damages
and costs aforesaid: And whereas certain goods and chattels in
the possession, that appear to belong to the said Peter Howland
are claimed by Abram Bates, of the Town of , in the
County and Province aforesaid, Now THEREFORE, The Condition of
this obligation is such; That if the above bounden Henry Hall
shall well and truly keep and bear harmless, and indemnify the
said Henry Johnson Sheriff as aforesaid, and all and every person
and persons, assisting him in the duties devolving on him in the
premises, of and from all harm, let, trouble, actions, suits, dama-
ges, costs, judgments and executions, that shall, or may, at any
time arise, come, or be brought against him, the said Sheriff, or
them, or any of them, as well for the levying and making sale,
under and by virtue of such execution, of all or any portion of
the goods and chattels which he the said Sheriff or they shall or
may judge to belong to the said Peter Howland, as for entering
any dwelling, store, ware-house, shop, building, or other premises,
for

for the s
obligatio
virtue.
Signed, S
in p
J
E

KNOW
Richards,
William I
and firm
County o
of
Canada,
executors
well and
us in the
and admin
Sealed wi
of

THE CO
bounden S
without de
detaining
the cattle o
cattle, goo
Then the
full force a
Signed, Se
in pres
WELL
JAMES

See the Law R

ASSIGNMENT

To
KNOW A
Esquire, S
as the case

cause, assign
p
ded.

ASSIGNMENT OF REPLEVIN BOND BY A SHERIFF.

for the seizing and taking of any goods and chattels, then this obligation to be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
JOHN HEMING, } HENRY HALL. [Seal.]
ERASTUS CUMMINGS.

REPLEVIN BOND TO A SHERIFF.

KNOW ALL MEN BY THESE PRESENTS: That We, Samuel Richards, of , Henry Davis, of , and William Harrison, of , are jointly and severally held and firmly bound to Henry Johnson, Esquire, Sheriff of the County or United Counties [or District, as the case may be,] of , in the sum of , lawful money of Canada, To be paid to the said Sheriff, or his certain attorney, executors, administrators, or assigns, for which payment to be well and truly made, We bind ourselves, and each and every of us in the whole, our and each and every of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and Dated at , this day of , in the year of our Lord

THE Condition of this obligation is such; That if the above bounden Samuel Richards, do prosecute his suit with effect and without delay against David Wales, for the taking and unjustly detaining of his cattle, goods and chattels, to Wit:—[here describe the cattle or goods distrained,] and do make a return of the said cattle, goods and chattels, if a return thereof shall be adjudged: Then the above obligation shall be void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
WELLINGTON H. RICHMOND, } SAMUEL RICHARDS, [Seal.]
JAMES W. HENDERSON. } HENRY DAVIS, [Seal.]
WILLIAM HARRISON. [Seal.]

See the Law Relating to Replevin, in Canada West, on pages 478 to 482 in this work.

ASSIGNMENT OF REPLEVIN BOND BY A SHERIFF.

To be endorsed on the back of the Bond as follows:

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Johnson, Esquire, Sheriff of the County or United Counties of as the case may be; Have at the request of the within named , the avowant (or person making cognizance) in this cause, assigned over this replevin bond, unto him the said pursuant to the Statute in such case made and provided.

IN WITNESS WHEREOF, I have hereunto set my hand and seal
of Office, this day of , one thousand eight
hundred and fifty-
Signed, Sealed and Delivered, }
in presence of }
WELLINGTON H. RICHMOND,
ALBERT MORRIS.

HENRY JOHNSON, [Seal.]
Sheriff.

TOWNSHIP OFFICER'S DECLARATION.

I, Henry Richmond, do sincerely promise and declare, That I will faithfully and dilligently perform the duties of _____, for the Town [or Township] of _____, in the County [or District] of _____, of the Province of Canada, for the current year. _____ A.D. 1855

Dated at _____, this _____ day of _____, A.D. 1854.
 [Signed.] _____ HENRY RICHMOND.

BOND GIVEN BY TOWNSHIP CLERK.

KNOW ALL MEN BY THESE PRESENTS: That We, A. B., Township Clerk for the Township of _____, in the County (or District), of _____, of the Province of Canada, and C. D., of _____ and E. F., of _____, of the said Province are held and firmly bound to James Hall, Treasurer of the County (or District, *as the case may be*), of _____, in the sum of _____, lawful money, To be well and truly paid to the said James Hall, Treasurer, or his successors in Office, for which payment well and truly to be made to the said James Hall, We bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, Dated this _____ day of _____, one thousand eight hundred and fifty-_____.

That if the above

THE Condition of this bond is such; That if the above-bounden A. B. shall well and truly pay over, or cause the same to be well and truly paid over, according to law, for the use of the said Township, ALL Monies coming into his hands by virtue of his office, and applicable to the general uses of the Township, and deliver the remainder, (if any there be,) TOGETHER with all books, records and papers belonging to the Township, into the hands of his successors in office as the law directs, then this obligation shall be null and void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered,
in presence of
HENRY JACOBS,
ADAM SMITH.

A. B., [Seal.]
Township Clerk.
 C. D., [Seal.]
 E. F. [Seal.]

As securities.

KNOW
of the r
County
Province
of the s
Treasur
in the s
paid to
cessor i
the said
heirs, ex
Sealed
of

The
bounden
Townsh
hundred
pay over
so collec
County (*state the*
and
wise to r
Signed, S
in p
C
L

THE C
Charles M
suitably s
vide him
and all ot
ler, (or in
provide,)
remain in

THE COURT
Charles M
all loss, co
by reason
Charles M
may be ;]

TOWNSHIP COLLECTOR'S BOND.

TOWNSHIP COLLECTOR'S BOND.

KNOW ALL MEN BY THESE PRESENTS: That We, A. B., Collector of the rates for the Township or Townships of _____, in the County or District of _____, (as the case may be,) of the Province of Canada, and C. D., of _____, and E. F., of _____, of the said Province, are held and firmly bound to James Hall, Treasurer of the County (or District, as the case may be,) of _____, in the sum of _____, lawful money, To be well and truly paid to the said James Hall, Treasurer, as aforesaid, or his successor in office, for which payment well and truly to be made to the said Treasurer, We bind ourselves, jointly and severally, our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and Dated at _____ this _____ day of _____, in the year of our Lord _____.

The Condition of this bond is such; That if the above-bounden A. B., shall collect all rates and assessments of the Town, Township or Townships of _____, for the year eighteen hundred and _____, for which he has been appointed; and shall pay over, or cause to be paid over, ALL Monies which he may so collect [except his own per centage] to the Treasurer of the County (or District, as the case may be,) on or before the (here state the time limited) _____, in the said year eighteen hundred and _____, then this obligation shall be null and void; otherwise to remain in full force and virtue.

Signed, Sealed and Delivered, }
in presence of

CHARLES RICHMOND,
LEWIS BROWN.

A. B.,
C. D.,
E. F.

[Seal.]
[Seal.]
[Seal.]

Condition of a Bond to Maintain a Person.

THE Condition of this obligation is such, That if the said Charles Miller shall, during the natural life of William Hall, suitably support and maintain the said William Hall, and provide him with suitable clothes, food, drink, medicine, and nursing, and all other things necessary, in the house of said Charles Miller, (or in such suitable house which said Charles Miller, may provide,) then the above obligation shall be void; otherwise to remain in full force and virtue.

Condition of Indemnity for Signing a Bond.

THE Condition of this obligation is such, That if the said Charles Miller shall Indemnify the said William Davis, against all loss, cost, damage and expense, to which he may be subjected, by reason of his signing, at the request, and as surety for said Charles Miller a bond to the Court of Chancery, [or as the case may be;] of the Town of _____, in the County of _____, of the _____ the _____

the Province of Canada, in the penalty of _____ pounds, currency, conditional for the faithful discharge, by said Charles Miller, of his duties, as executor of the last will and testament of William Stearnley, deceased, then this obligation shall be void; otherwise to remain in full force and virtue.

GENERAL RELEASE OF ALL DEMANDS, (C. E.)

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Piper, of the City of _____, and District of _____, of the Province of Canada, merchant, of the first part; and Stephen Dill, of the Town of _____, in the County of _____, and District of _____, of the said Province, trader, of the second part, WHEREAS: The said party of the first part, for and in consideration of the sum of _____ pounds _____ shillings, lawful money of Canada, to him by the said party of the second part, in hand well and truly paid, at or before the sealing and delivery of these presents, the receipt whereof, is hereby acknowledged, AND HE the said party of the first part, has remised, released, and forever discharged, and he does hereby for himself, his heirs, executors, administrators and assigns, remise, release, and forever discharge the said party of the second part, his heirs, executors, administrators and assigns, of and from all debts, demands, actions, and causes of action, which he now has in law and equity, which may result from the existing state of things, from any and all contracts, liabilities, doings, and omissions, up to this fifth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, the day and year first above written.

Signed, Sealed and Delivered,
in presence of
STYLES HOLMES,
L. H. JONES.

H. PIPER, [Seal.]
STEPHEN DILL. [Seal.]

RELEASE OF ALL DEMANDS, (C. W.)

THIS MAY CERTIFY, That I, Henry Piper, of the Township of _____, in the County of _____, of the Province of Canada, merchant, of the first part; and Stephen Dill, of the Town of _____, in the County of _____, of the said Province, of the second part, WHEREAS: The said party of the first part, for and in consideration of the sum of _____ pounds _____ shillings, lawful money of Canada, in hand well and truly paid, by the said party of the second part, the receipt whereof is hereby acknowledged, AND I, the said party of the first part, Do hereby, for myself, my heirs, and assigns,

remise,

remise, a
and assign
promises,
him, up to
In W
hereunto
June, in
fifty-four
Signed, S
in p

KNOW
of the Cit
of the Pro
one years
received,
by my lat
holden at,
in the said
year of ou
the case m
rency, in
both Real
sed; And
forever di
administra
from the s
dues, sum
equity, un
of these p
In Wit
unto set m

and fifty
Signed, Se
in pre
OL
AD.

KNOW A
of the Tow
the Provin
Elizabeth

RELEASE TO AN EXECUTOR.

remise, and release, the said party of the second part, his heirs and assigns, forever, from all suits, actions, and causes of action, promises, covenants and demands, which I have, or claim against him, up to the date of these presents.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this fifth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of
STYLES HOLMES,
L. H. JONES.

H. PIPER. [Seal.]
STEPHEN DILL. [Seal.]

RELEASE TO A GUARDIAN.

KNOW ALL MEN BY THESE PRESENTS: That I, Edward Lewis, of the City of Montreal in the County and District of Montreal, of the Province of Canada, having attained the age of twenty one years, do hereby acknowledge, That I this day have had and received, of and from Andrew Hall, my guardian, duly appointed by my late Father, [or by an order of the Court, holden at, within and for the County of , in the said Province, on the day of , in the year of our Lord one thousand eight hundred and , or as the case may be,] the sum of two hundred and fifty pounds, currency, in full satisfaction and payment of my share of the Estate both Real and Personal, of my late Father James Lewis, deceased; And therefore I do, by these presents, release, acquit, and forever discharge the said Andrew Hall, his heirs, executors, and administrators, of and from the said guardianship, and of and from the said legacy or legacies, action or actions, suits, debts, dues, sums of money, claims and demands, whatsoever, in law or equity, under or by virtue of the said guardianship up to the date of these presents.

IN WITNESS WHEREOF, I the said Edward Lewis, have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of
OLIVER STONE,
ADAM BATES.

EDWARD LEWIS. [Seal.]

RELEASE TO AN EXECUTOR.

KNOW ALL MEN BY THESE PRESENTS: That We, Charles Ball, of the Town of , in the County of , of the Province of Canada, grocer, and Elizabeth Ball, my wife, late Elizabeth Howland, one of the daughters and legatees named in

the will of Oliver Howland, late of _____, in the County of _____ of the said Province, deceased, do hereby acknowledge, That We have this day received of and from James Smith, executor of the last will and testament of the said Oliver Howland, deceased, the sum of three hundred and seventy pounds, lawful money of this Province, in full satisfaction and payment of all such sum or sums of money, legacies, and bequests as are given and bequeath to the said Elizabeth Ball, by the last will and testament aforesaid, and all interest accrued thereon: And therefore, We, the said Charles Ball and Elizabeth Ball, my wife, do by these presents release, acquit, and forever discharge the said James Smith, his heirs, executors, administrators and assigns, of and from all manner of action or actions, suits, debts, dues, sums of money, claims and demands, whatsoever, in law or equity, under or by virtue of the said last will and testament, or against, or out of the estate of the said Oliver Howland.

IN WITNESS WHEREOF, I, the said Charles Ball and Elizabeth Ball my wife, have hereunto set our hands and affixed our seals, this seventeenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

SAMUEL DAVIDSON,
W. H. RICHMOND.

CHARLES BALL,
ELIZABETH BALL.

[Seal.]
[Seal.]

N.B.—The above form may be so changed as to be equally applicable to an unmarried person, or persons.

RELEASE TO AN ADMINISTRATOR.

KNOW ALL MEN BY THESE PRESENTS: That I, Wellington Harrison, of the Village of _____, in the County of _____ of the Province of Canada, general merchant, the only son (or as the case may be) of Lewis Harrison, late of the City of Toronto, in the County of York, of the said Province, deceased, Who died intestate, do hereby acknowledge, That I this day have had and received of and from Albert Jones, administrator of the Estate of the said Lewis Harrison, deceased, the sum of two hundred and twenty pounds, lawful money of this Province, in full satisfaction and payment of all such sum or sums of money, share or shares, and dividends which were due, owing, payable, and belonging to me, by any means whatsoever, for or on account of my full share, or portion, of the Real and Personal (or Personal, as the case may be) Estate of my said Father, deceased; And therefore I, the said Wellington Harrison, do by these presents release, acquit, and forever discharge the said Albert Jones, his heirs, executors, administrators and assigns, of and from the said share or dividend of the Estate aforesaid, and of and from all manner of action or actions, suits, debts, dues, sums of money, claims

claims a
the estat
In W
hereunto

and fifty-
Signed, S
in p
J
D

THIS M
in the Co
hereby ac
describe th
hands, by
Jones, sho
County of
and my le
use, benefi
Jones, and
or either o
either or b

In WITN
my seal, th
thousand e
Signed, Se
in pres
S. V
JOHN

THIS IND
City of Mon
Canada, ge
Johns, in sa
second part
has leased,
the first day
second part
that is to sa
Street, in sa
said Street;
fifty feet in
the same be
ing in the sa

LEASE OF STORE AND DWELLING.

claims and demands whatsoever, in law or equity, in and upon the estate of my late Father, up to the date of these presents.

IN WITNESS WHEREOF, I, the said Wellington Harrison, have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred

and fifty-

Signed, Sealed and Delivered,

in presence of

JAMES HALL,

DANIEL OLIVER.

} WELLINGTON HARRISON. [Seal.]

DECLARATION OF TRUSTS.

THIS MAY CERTIFY, That I, Eben Downs, of the City of Toronto, in the County of York, of the Province of Canada, merchant, Do hereby acknowledge, and declare: That a certain writing, (*here describe the particular instrument*) is left and deposited in my hands, by and in trust for William Henry, trader, and Thomas Jones, shoemaker, both of the Town of , in the County of , of the said Province, To BE HELD BY ME, and my legal representatives only, in Trust, for the convenience, use, benefit, and advantage of said William Henry and Thomas Jones, and their legal representatives; and on demand from them, or either of them, that I will produce the same, for the use of either or both of said parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this fourteenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

S. WILLIAMS,

JOHN SLOAN.

} EBEN DOWNS.

[Seal.]

LEASE OF STORE AND DWELLING.

THIS INDENTURE OF LEASE, made between Seth Hall, of the City of Montreal, in the District of Montreal, of the Province of Canada, gentleman, of the first part; and Henry Lovejoy, of St. Johns, in said District and Province aforesaid, merchant, of the second part, WITNESSETH: That the said party of the first part has leased, and does hereby lease, for a term of five years, from the first day of August next ensuing, unto the said party of the second part, who is hereby present, and accepting for himself, that is to say, the Store and Dwelling situated on Notre Dame Street, in said City, being No. , on the northerly side of the said Street; dimensions of said Store is eighteen feet front, by fifty feet in depth, with all the privileges and appurtenances to the same belonging, including the counters, drawers, and shelving in the same, TOGETHER with the Cellar under, and the Dwelling

ling over said Store, comprising eight rooms, all the said leased premises being well known to the said lessee, who has seen and examined the same before the execution of these presents, and and with the said leased premises, he is content and satisfied. This lease is thus made subject to the following stipulations, viz : that the Lessee shall make all repairs customarily made by tenants, during the present lease, and at the termination thereof, shall peaceably surrender the said premises in the like condition as when taken possession of, reasonable tear, wear, fire, and unavoidable casualties excepted ; And that he shall constantly keep the hereby leased premises furnished, according to law, for the security of the rent hereinafter stipulated ; he shall not make over his interest in the present lease, or sub-let the whole, or any part of the premises hereby leased, without the consent of the lessor being first obtained in writing for that purpose ; And that during the said term, the lessee shall perform all the requirements of the police and fire departments. It is further agreed, That the City taxes and assessments shall be paid by the lessee, (or the lessor, as the case may be ;) This Lease is further made in consideration of the sum of four hundred pounds, lawful money of Canada, for the rent of the aforesaid premises, for the said term of five years, from the first day of August next ; which sum the said lessee binds and obliges himself to well and truly pay to the said lessor, or his legal representatives, in equal quarter-yearly payments, of eighteen pounds fifteen shillings, currency, each payment ; the first payment whereof to be due and payable on the first day of November next.

Signed and Sealed, in duplicate, at the City of Montreal, this eighth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Witnessed by
CHARLES DOLE,
HENRY LEWIS.

SETH HALL,
H. LOVEJOY.

[Seal.]
[Seal.]

[For Canada West say County instead of District.]

ANOTHER LEASE.

THIS INDENTURE OF LEASE, made this twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four, between Douglas Williams, of the Township of _____, in the County of _____, of the Province of Canada, merchant, of the first part ; and John Adams, of the said Township of _____, in the County of _____, in said Province, yeoman, of the second part, WITNESSETH : That the said party of the first part, doth demise and lease, unto the said party of the second part, all that (describe the premises ;) To hold for the term of _____ years, from the date hereof, with all the privileges and appurtenances, thereunto belonging ; yielding and paying therefor yearly,

ANOTHER LEASE.

on every first of _____, during said term, unto the said party of the first part, or his assigns, the yearly rent of _____ pounds, lawful money of Canada, in four equal payments, quarterly.

[Here insert any provisos or conditions, as to terminate the lease by notice; or that the lease shall be void on non-payment of rent.]

AND the said party of the first part, agrees with the said party of the second part, that he shall have and peaceably possess the said premises during said term, without the lawful interruption, or eviction, of any person whatsoever. (Here may be inserted any other covenants on the part of the lessor, as covenant to deduct half the taxes from the rent, &c;) And the said party of the second part covenants to pay the said rent in manner aforesaid, and to deliver up said premises to said party of the first part, or his Attorney, peaceably and quietly, at the end of said term, in as good condition as the same are now, reasonable use, wear and tear thereof, and fire and other casualties excepted, and to pay all taxes on said described premises; and will not, during said term, do, or suffer any waste in the demised premises, (nor underlet the same, or any part thereof;) (nor permit any other person to occupy the same, or any part thereof; nor make, nor suffer to be made, any alteration therein, without the consent of the said party of the first part, or his assigns, for that purpose; and also, that said party of the first part, or his Attorney or agent, may enter the premises for the purpose of viewing and making improvement, at reasonable times, in the day time.

IN WITNESS WHEREOF, &c.,

Other covenants may be inserted in a lease.

1st. *Covenant to deduct half the taxes from the rent.*

And that the said party of the first part, will allow out of the rent aforesaid, one half of the taxes which shall be legally assessed on the premises, and paid by the said party of the second part.

2nd. *Covenant on the part of the lessor not to overstock the Pasture.*

And the said party of the second part, will not, at any time, pasture or suffer to be pastured upon the said premises, or any part thereof, any larger stock of cattle than have been usually pastured thereon, in two next preceding years.

3rd. *Covenant to carry on in a Husbandman-like manner.*

And the said party of the second part, will, in all respects, manage and carry on said premises, in a husbandman-like manner, according to the custom of the country.

4th. *Covenant not to Till more than a Certain Quantity.*

And the said party of the second part, will not have, use or employ in ploughing or tillage, a greater quantity of land than _____ acres, at any one time, or in any one year, during the term hereby demised

5th. *Covenant not to keep a Tavern.*

And that no person shall sell or retail any beer, ale or other liquors, whatever, or keep any victualling, or other public house of entertainment, in the buildings on said premises, without the permission of the said party of the first part, in writing.

LEASE.—(Short Form.)

THIS INDENTURE OF LEASE, made between Douglas Williams, of the Town, or City of _____, in the County of _____, of the Province of Canada, merchant, of the first part; and Henry Johnson, of said Town or City of _____, of the County and Province aforesaid, trader, of the second part, Agree as follows, to Wit:—The said party of the first part leases to the said party of the second part, his House, Store, and a lot of Ground, situate in the Town, or City of _____, (*here describe the premises*;) for the term of THREE YEARS, from the first day of September next ensuing. AND the said party of the second part, agrees to pay for said term, the sum of seventy-five pounds, currency, payable on _____, and not to assign, or lease the same, nor make alterations, nor carry on any offensive trade therein, without the written consent of the said party of the first part; And to quit the same at the termination of this lease, and to leave the same in good condition and repair, unavoidable casualties excepted.

THIS LEASE will be void, if the said party of the second part fails to perform this agreement.

Executed, Signed and Sealed, in duplicate, at the Town of _____, this tenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Witnessed by	}	DOUGLAS WILLIAMS,	[Seal.]
CHARLES DOLLE,		HENRY JOHNSON.	[Seal.]
HENRY LEWIS.			

LANDLORD'S CERTIFICATE OF RENTING.

THIS IS TO CERTIFY, That I, Charles Jones, of the Town of Brantford, have this _____ day of _____, A.D. 1854, Let and Rented, unto William Hincks, of the said Town, merchant, my Store and Dwelling, known as number _____, in _____ street, in the Town of Brantford, Together with all the out-buildings, yard, garden and appurtenances to the said premises belonging, and the sole and uninterrupted use and occupation of the said premises and every part thereof, for the term of THREE YEARS, To commence the _____ day of _____ next, at the yearly rent of one hundred pounds, lawful money of Canada, payable quarterly: [with the assessments, if to be paid by the tenant.]

CHARLES JONES.
TENANT'S

LETTERS ON BUSINESS.

TENANT'S CERTIFICATE OF AGREEMENT.

THIS IS TO CERTIFY, That I, William Hincks, of the Town of Brantford, have hired and taken from Charles Jones, his Store and Dwelling, known as number , in street, in the Town of Brantford, Together with all the out-buildings, yard, garden and appurtenances to the said premises belonging, for the term of THREE YEARS, To commence the day of next, at the yearly rent of one hundred pounds, lawful money of Canada, payable quarterly. [If to pay assessments, say, And will pay the assessments of the said premises.]

Dated at Brantford, this day of , A.D. 1854.
WILLIAM HINCKS.

Notice from a Landlord to a Tenant.

SIR:—You being in possession of a certain House, Store, and lot of Ground, with the appurtenances belonging to me, situate in the Town of , which was leased to you by me; for the term of three years, which said term, will expire and terminate on the day of next, I hereby notify you, that it is my desire to have again, and re-possess the said premises, and I do hereby require and demand you to leave the same.

WITNESS my hand this day of , A.D., 1854.
DOUGLAS WILLIAMS.

To Mr. Henry Johnson.

LETTERS ON BUSINESS.

"THE FIRST THING NECESSARY," says Lord Chesterfield, "in writing letters of business, is extreme clearness and perspicuity; every paragraph should be so clear and unambiguous that the dullest fellow in the world may not be able to mistake it, nor be obliged to read it twice in order to understand it. This necessary clearness implies a correctness, without excluding an elegance of style."

LETTER I.

Answer to an Advertisement for the Situation of a Clerk.

SIR,

In reply to an advertisement inserted in the "Transcript" of this day, I beg to present myself to your notice, as being qualified to fill the situation referred to—that of Clerk and Book-keeper in your establishment. I have long been accustomed to that employment, and my last engagement, which I left on account of ill-health, continued for the space of five years, during which time, as I am prompted to believe, from the flattering assurances made by my employers, my services gave them the fullest satisfaction. My present letter will serve as a specimen of my hand-writing, and I beg to add that I am well versed in book-

book-keeping, both by single and double entry, and also well acquainted with the public offices, and the business of the Custom-house. Should you wish to communicate with my late employers, the Messrs. Jewett & Stearns, of Quebec, I have confidence in the belief that they will speak favourably of me.

I am, Sir,

Your obedient servant.

LETTER II.

Application for the Character of a Clerk.

SIR,

Having lately parted with one of my clerks, I advertised, a few days since, in the Montreal "Transcript," with a view of meeting with a suitable person to fill his place. Among other applicants, there is one named Hamilton, who tells me that he has been engaged in your office in the capacity of clerk during the last four years, I was somewhat pleased with his address and manner; and if his pretensions as to capability and character should prove satisfactory, I feel disposed to give him a trial. I shall therefore feel obliged if you will inform me whether he has been in your employment during that time, and if so, whether you found him quick and correct in his calculations, well versed in book-keeping, industrious, sober, and punctual in his habits, and of the strictest integrity. On the last point, it is needful I should be particularly circumspect, as his situation would be one of trust. An early answer to these inquiries, with any information you have to give in reference to what you may know about him, will extremely oblige.

Sir,

Your very obt. servant.

LETTER III.

In answer to Inquiries respecting the Character of a Clerk.

SIR,

Your letter reached me this morning, and in reference to my knowledge of Mr. Hamilton, I beg to inform you that he performed the duties of clerk in my counting-house for upwards of four years, during which time his conduct was marked with the strictest integrity: and in his habits of business, I always found him alert, industrious and punctual. Indeed these praiseworthy traits in his character, united with a pliant and accommodating disposition, won my esteem; and I should not have wished him to quit my employment, had I not been, from peculiar circumstances, obliged, for the present, to reduce my establishment.

I am, dear Sir,

Yours, most respectfully.

LETTER IV.

From a Trader in the Country to a Merchant in the City.

SIR,

Having been recommended to you by Mr. Harris, with whom I served my apprenticeship, I have herewith sent you a small order, as under, which I hope you will execute on as good terms, and with the same care and dispatch, as for the rest of your correspondents. After having given me the usual credit, I will remit you the amount in cash; and if you treat me well, I will omit no opportunity of increasing my commissions, and testifying that I am, with much respect.

Sir,

Yours respectfully.

LETTER V.

A Wholesale to a Retail Firm.

GENTLEMEN,

We beg to inform you that we have lately opened a large establishment in the (Fancy Goods line.) and have provided an extensive stock of the choicest goods and the most fashionable patterns. Soliciting the custom of your respectable Firm, we at the same time desire to assure you that any orders you may favor us with, will receive our best attention. We have a few choice samples of (), a rarity at present, and well worthy of your notice.

We are, Gentlemen,

Your most obedient servants.

LETTER VI.

A Gentleman proposing his Son as an Apprentice.

SIR,

As I understand that you have a vacancy for an apprentice, I am anxious to place my son under your charge, in order that he may acquire a competent knowledge of your business, which he seems strongly inclined to follow in preference to another. I know not what your terms may be, but if favourable, I shall have no objection to complying with them; and with the view of settling that point, shall be happy either to receive a note from you, or to meet you at your own, or my house. Allow me to add, that my son has received a good plain education, fully adequate to all the requirements of a man of business, and that I think you would find him of a cheerful and pliant disposition, of industrious habits, and quick in receiving any kind of instruction.

I am, Sir,

Your very obedient servant.



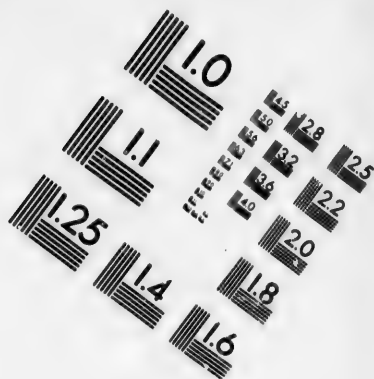
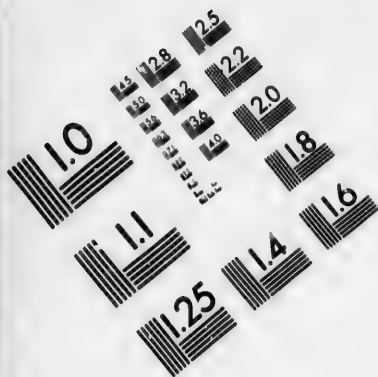
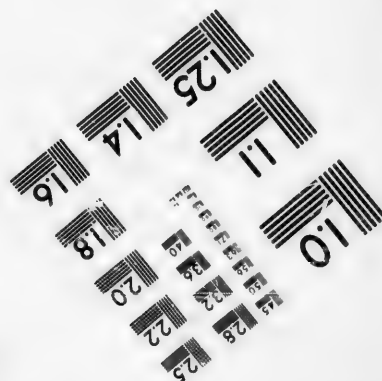
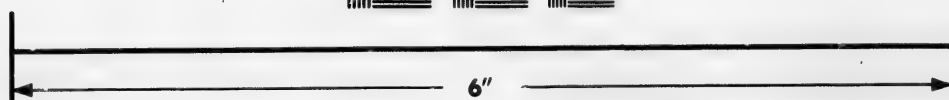
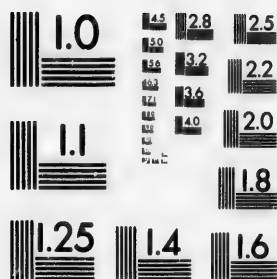


IMAGE EVALUATION TEST TARGET (MT-3)



Photographic
Sciences
Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0
5.6
6.3
7.1
8.0
9.0
10.0
11.2
12.5
14.0
16.0
18.0
20.0
22.5
25.0
28.0
31.5
36.0
40.0
45.0
50.0
56.0
63.0
71.0
80.0
90.0
100.0

10
01

LETTER VII.

On Retiring from Business, and Recommending a Successor.

GENTLEMEN,

We flatter ourselves that we have many friends among our connection who will regret to hear that we are just upon the point of relinquishing business. In doing so, our extensive stock of goods will be transferred to the hands of the Messrs. Hutchins & Wilson, who will, in future, carry on the business on the same approved system, and the same extensive scale as ourselves, provided they can rely on receiving the patronage of our connection; in the hopes of which, it is our pleasure and duty to present those gentlemen to your notice. We need scarcely speak of the confidence we feel in their liberal mode of conducting business, and their strict attention and punctuality in their mercantile transactions. Feeling assured that they will meet with the same countenance received by ourselves from your Respectable firm.

We beg to subscribe ourselves
Your obliged and
Most obedient servants.

CO-PARTNERSHIP.

Agreement of Co-partnership.

William Harrison of the City of _____, in the County of _____ of the Province of Canada, and Joseph Stewart, of the said City and Province aforesaid, Agree as follows, to Wit:—

THE parties agree to become partners for the purpose of buying and selling goods such as are usually kept for sale or purchased at a retail store, in the City of _____, (or Town of _____), for the term of five years, from the date of

these presents.

Firstly. The style of the said Co-partnership shall be William Harrison & Co., No _____ street, in the City aforesaid.

Secondly. Said parties have each contributed five hundred pounds currency, as the capital stock of the said firm, (or as the fact may be.)

Thirdly. All profits shall be equally divided; and all expenses of the business and losses, shall be equally borne in common.

Fourthly. Both parties shall give all their time and attention to the business of the said firm, for the common benefit; and neither party shall engage in any trade or business for his private benefit.

Fifthly. Correct books of account shall be kept, which shall always be open to inspection of both parties, or their legal representatives, in which shall be regularly entered all moneys received

ved
coun

Sig
coun

in eve
Sev

any p
writte

Eig
party,

of the
charge

amount

Nin
debts s

of the

In V
hereun

day of

and fift

Signed,
in

NOTE

AGRE

WE, T

do by the

unto and

strators a

within m

us so long

from the

thousand

restriction

In WIT

NOTICE
partnership
That Hen

is special p

to the com

A CERTIFICATE OF CO-PARTNERSHIP.

ved and paid out, and all purchases, sales, transactions and accounts relating to the business of the said firm.

Sixthly. An account of the stock shall be taken, and the accounts between the said parties, shall be settled, as often as once in every year, and oftener, if requested, in writing by either party.

Seventhly. Neither of the said partners shall become surety for any person, or bind the firm as surety, in any case, without the written consent of the other.

Eighthly. No money or property shall be withdrawn by either party, or applied to his own use, except with the written consent of the other party; and in every such case, the same shall be charged, and his share of the profits reduced in proportion to the amount withdrawn.

Ninthly. At the close of the partnership, the stock, property and debts shall be equally divided, after paying the debts and liabilities of the firm.

IN WITNESS WHEREOF, The said parties to these presents have hereunto set their hands and affixed their seals, this eighteenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

HENRY TOBIN,

WELLINGTON H. RICHMOND.

WM. HARRISON, [Seal.]
JOSEPH STEWART. [Seal.]

NOTE.—The first entry in the day-book should be the above agreement.

AGREEMENT TO CONTINUE A PARTNERSHIP.

WE, The within named William Harrison and Joseph Stewart, do by these present, declare and mutually covenant and agree, unto and with each other, his and their heirs, executors, administrators and assigns, to continue the joint trade and partnership, within mentioned, for the further term of _____ years, if both of us so long live, to be accounted from the expiration of _____ years from the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, with all the provisions and restrictions herein contained.

IN WITNESS WHEREOF, &c., (as in the preceding.)

A CERTIFICATE OF CO-PARTNERSHIP.

NOTICE IS HEREBY GIVEN, That the subscribers have formed a partnership, under the name and firm of JOHNSON & STEPHENSON : That Henry Johnson, of _____, and James Stephenson, of _____, are general partners, and William Colt, of _____ is special partner; And that said special partner has contributed to the common stock of the said partnership the sum of one hundred

hundred pounds, currency. The business to be conducted by the said firm in the City of _____, is a General Commission, and Forwarding Business, said partnership commences on _____, and is to terminate on _____.

Dated at Toronto, this _____ day of _____, A.D. 1854.

WITNESSED BY

} HENRY JOHNSON.
JAS. STEPHENSON.
WILLIAM COLT.

A DISSOLUTION OF PARTNERSHIP.

William Harrison, of the City of _____, in the County of _____, of the Province of Canada, and Joseph Stewart, of the said City and Province aforesaid, Agree as follows, to Wit: The Partnership existing between the said parties, under the firm of _____, Is Dissolved. The said William Harrison, for and in consideration of the sum of _____ pounds, currency, paid to him by the said Joseph Stewart, grants and assigns to the said Joseph Stewart, all his interest and right, in all the goods and stock of said firm, and in all the debts and demands due said firm: With full power to collect them by suits or otherwise, in the name of said William Harrison, and for his own use. The said William Harrison agrees that he will not do any act by which said Joseph Stewart may be delayed, or hindered from collecting any of said debts, or demands; and that he will, on request, execute any proper Instrument for enabling said Joseph Stewart, to collect the same. The said Joseph Stewart agrees to pay all debts and demands existing against said firm, and to indemnify and save harmless said William Harrison from any loss, cost, damage, or expense, to which he may be subject by reason of the same.

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and affixed their seals, this _____ day of _____, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of

WELLINGTON H. RICHMOND,

WILLIAM TOBIAS.

} WM. HARRISON, [Seal.]
JOSEPH STEWART. [Seal.]

NOTICE ON DISSOLUTION OF PARTNERSHIP.

NOTICE IS HEREBY GIVEN, That the Partnership lately subsisting between William Harrison and Joseph Stewart, both of the City of _____, under the firm of _____, expired on _____, (or was dissolved on _____, by mutual consent). ALL DEBTS owing to the said Partnership, are to be received by said William Harrison, and all demands on the said Partnership, are to be presented

RESPECTING POWER OF ATTORNEY.

presented to him for payment : (or W. Harrison is authorized to settle all debts due to and by said company.)

Dated at this day of , A.D. 1854.

WM. HARRISON,
JOSEPH STEWART.

NOTE :—It is necessary to publish a notice, immediately after a dissolution of a partnership, for the information of the public at large, and to send a special notice to all persons who have dealings with the company.

NOTICE WHERE ONE PARTNER LEAVES THE FIRM.

NOTICE IS HEREBY GIVEN, That the Partnership subsisting between Alvin Boles, Charles Henry and James Smith, was dissolved on the day of . so far as relates to the said Charles Henry, all debts due to the said Partnership, are to be paid, and those due from the same, discharged, at the store of the late firm, in , where the business will be continued, under the firm of Boles and Smith.

ANOTHER NOTICE OF DISSOLUTION OF PARTNERSHIP.

THE BUSINESS heretofore carried on, in this City, under the Firm of Bolton & Davis, dealers in Dry Goods ; Is this day Dissolved by limitation.

FRANKLIN BOLTON,
HENRY L. DAVIS,

Montreal, June 27, 1854.

RESPECTING POWER OF ATTORNEY.

A LETTER, OR POWER OF ATTORNEY, is a written delegation of authority by which one person enables another, to do an act for him. When a power is Special, and the authority limited, the attorney cannot bind his principal by any act in which he exceeds that authority ; but the authority of the attorney will be so construed as to include all necessary means of executing it with effect.

WHEN the power is in writing, and subject to the inspection of the party, no good reason exists for binding the principal, beyond the scope of it ; though in general he who employs an agent or attorney shall lose by his fraudulent or illegal acts, in preference to an innocent third person.

WHERE a Letter of Attorney is granted, to be used in a *different* or distant *jurisdiction*, it ought to carry with it evidence of its being genuine or authentic. It is therefore proper that it should be witnessed and acknowledged before some Officer in the town where it is executed. Such as a Justice of the Peace, or Mayor of a town.

GENERAL POWER TO TRANSACT BUSINESS.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Piper of the City of Montreal, of the Province of Canada, merchant; Have hereby made, constituted, and appointed, and by these presents do make, constitute, and appoint William Dole, of the Town of , in the County of

and in the District of , of the said Province, trader, my true, sufficient and lawful attorney, for me and in my name, and for my use; (*here describe the things to be done*;) AND for the purposes aforesaid, I do hereby grant unto my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully to all intents and purposes, as I might or could do if personally present, With full power of substitution, and revocation, hereby ratifying and confirming all that my said attorney or his substitute shall lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, this twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of
SAMUEL HOLDEN,
W. SETHARD.

H. PIPER.

[Seal.]

Another General Power to Transact Business.

KNOW ALL MEN BY THESE PRESENTS: That I, Wellington Harrison Richmond, of the City of Toronto, in the County of York, of the Province of Canada, author and publisher; Have made, constituted, and appointed, and by these presents do make, constitute, and appoint, and in my place and stead, put and depute, James Jones, of the City of Montreal, of said Province, merchant, my true and lawful Attorney, for me, and in my name, and for my use, to ask, demand, sue for, recover, and receive, all such sum or sums of money, debts, goods, wares, and other demands whatsoever, which are or shall be due, owing, payable, and belonging to me by any manner or means, especially. (*Here particular reference should be made to the main or principal object or purpose in view, and for which the power of Attorney is more especially granted.*) Giving and granting unto my said Attorney, by these presents, my full and whole power, strength, and authority in and about the premises; to have, use, and take, all lawful ways and means, in my name, for the purposes aforesaid, and upon the receipt of any such debts, dues, property, or sum of money, (*as the fact may be*), acquittances, or other sufficient discharges, for me, and in my name to make, seal, and deliver. AND GENERALLY, all and every other act or acts, thing or things, in

in the l
about t
perform
self mig
unto m
make, c
him for
pleasure
all and
about th
In Wi
my seal,
thousand
Signed, S
in p
P
S

RE

Know
ton Harri
of York,
Attorney,
our Lord
constitute,
Province
me, and i
Letter of A
Now Know
have revol
these prese
the said Le
given, or in
IN WITNE
my seal, thi
Lord one th
Signed, Sea
in pres
H. P
HOR

KNOW ALL
of the City
of Canada,
and by these

POWER TO COLLECT DEBTS.

in the law whatsoever, needful and necessary to be done in and about the premises, for me and in my name, to do, execute, and perform, as fully and amply to all intents and purposes, as I myself might or could do if personally present, giving and granting unto my said Attorney the right, full power and authority to make, constitute, and employ one or more Attorneys to act under him for the purpose aforesaid, and again to discharge them at pleasure. HEREBY ratifying and holding for firm and effectual, all and whatsoever my said Attorney shall lawfully do in and about the premises, by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

Signed, Sealed and Delivered,

in presence of
PETER SNAITH,
SAMUEL HOLDEN.

} W. H. RICHMOND. [Seal.]

REVOCATION OF A POWER OF ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS: That whereas I, Wellington Harrison Richmond, of the City of Toronto, in the County of York, of the Province of Canada, in and by my Letter of Attorney, bearing date the twelfth day of June, in the year of our Lord one thousand eight hundred and fifty-four, Did make, constitute, and appoint James Jones, of the City of Montreal, and Province aforesaid, merchant, my true and lawful Attorney for me, and in my name, to, &c., (here copy the language of the Letter of Attorney,) as by the said letter will more fully appear; Now KNOW YE THAT I, the said Wellington Harrison Richmond, have revoked, countermanded, annulled, and made void, and by these presents do revoke, countermand, annul, and make void, the said Letter of Attorney, and all power and authority thereby given, or intended to be given, to the said James Jones.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

Signed, Sealed and Delivered,

in presence of
H. PIPER,
HORATIO HILL.

} W. H. RICHMOND. [Seal.]

POWER TO COLLECT DEBTS.

KNOW ALL MEN BY THESE PRESENTS: That I, Henry Tobias, of the City of Toronto, in the County of York, of the Province of Canada, merchant; Have made, constituted, and appointed, and by these presents, do make, constitute, and appoint James

Bond,

Bond, of the Town of Simcoe, in the County of Norfolk, of the said Province, trader, my true and lawful attorney, for me, and in my name, place and stead, and for my use, to ask, demand, sue for, collect and receive, all such sums of money, debts, rents, dues, accounts, and other demands whatsoever, which are now due, or shall become due, owing, and payable, to me, or detained from me, in any manner whatsoever, by Samuel Piper, of , his heirs, executors and administrators, or any of them, [or by any person or persons residing in either section of the Province of Canada;] Giving and granting unto my said attorney, by these presents, full power and authority, to take, all lawful ways and means, in my name, to do, execute, and perform all and every act and thing whatsoever, requisite and necessary to be done, in and about the premises, as fully and amply to all intents and purposes, as I myself might or could if personally present, for the purposes aforesaid, and upon the receipt of any such debts, dues, property, or sum of money, (*as the case may be*), acquitances, or other sufficient discharges, for me and in my name to make, and deliver; With full power of substitution and revocation, hereby ratifying and confirming all that my said attorney, or his substitute, shall lawfully do or cause to be done, by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty- .

Signed, Sealed and Delivered,

in presence of
DAVID WILSON,
HENRY DIXON.

} HENRY TOBIAS. [Seal.]

POWER TO TAKE CHARGE OF LANDS, &c.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Welling-ton, of the Town of , in the County of , of the Province of Canada, carpenter and joiner; Have made, constituted and appointed, and by these presents do make, constitute and appoint, John Reynolds, of the Township of , in the County of , of the said Province, yeoman, my true and lawful attorney, for me, and in my name, place and stead, (*here name the lands and premises for which this power is granted*;) To exercise the general control and supervision over the lands, tenements and hereditaments, described as above, belonging to me, and situate in the Township of , in the County of , of the Province aforesaid; To prevent, forbid and hinder, by all lawful means whatsoever, the commission of cutting down trees, or of any trespass or waste upon the same, or any part thereof: and at my cost and expence, and under my advice, (*or under the advice of my counsel A. B.*)

as the ca
and rece
consequ
the abov
part ther
granting
and perfe
and neces
all intent
With full
and confi
lawfully c

IN WIT
my seal, t
Lord one
Signed, S
in pro
H
JAC

KNOW A
of &c., [*as*
and then a
Insured.)
your proper
or City of
to be appro
my said att
representat
With full p
that may be
surrender a
expiration t
to receive a
due, and on
sary; Givin
and authori
whatsoever,
premises, as
do if persona
revocation, h
ney, or his s
virtue hereo

IN WITNES

POWER TO EFFECT INSURANCE.

as the case may be,) of _____, to sue for, collect, recover and receive, compound for, any damages which may accrue in consequence of the commission of any trespass or waste upon the above described lands, tenements and hereditaments, or any part thereof, by any person or persons whomsoever; Giving and granting unto my said attorney, full power and authority, to do and perform all and every act and thing whatsoever, requisite and necessary to be done, in and about the premises as fully to all intents and purposes, as I might or could if personally present; With full power of substitution and revocation, hereby ratifying and confirming all that my said attorney, or his substitute, shall lawfully do or cause to be done, by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____,
Signed, Sealed and Delivered,
in presence of
HENRY WEST,
JACOB FRENCH. } CHARLES WELLINGTON. [Seal.]

POWER TO EFFECT INSURANCE.

KNOW ALL MEN BY THESE PRESENTS: That I, Stephen Howard, of &c., [as in the Power to convey Real Estate to the description, and then add:] to effect Insurance, (here describe the premises to be Insured,) with the [here name the Company that you wish your property to be insured by] Insurance Company, in the Town or City of _____, on the best terms the same can be effected, to be approved of by my said attorney; And I hereby empower my said attorney to sign any application for said insurance, any representation of the condition and value of the said property; With full power to execute articles of agreement, and all papers that may be necessary for that purpose; and also to cancel and surrender any policy he may obtain, and such cancelling, or at the expiration thereof, to renew the said Policy, (if necessary,) and to receive any dividend, return premium, or deposit, that may be due, and on such receipt full discharge to give therefor, if necessary; Giving and granting unto my said attorney full power and authority, to do and perform all and every act and thing whatsoever, requisite and necessary to be done, in and about the premises, as fully, to all intents and purposes, as I might or could do if personally present; With full power of substitution and revocation, hereby ratifying and confirming all that my said attorney, or his substitute, shall lawfully do, or cause to be done, by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my
155

my seal, this day of , in the year of our Lord
 one thousand eight hundred and .
 Signed, Sealed and Delivered, }
 in presence of STEPHEN HOWARD. [Seal.]
 CHARLES HENRY, }
 JOHN ANDERSON. }

POWER TO SELL AND CONVEY REAL ESTATE.

KNOW ALL MEN BY THESE PRESENTS: That I, Wellington Harrison Richmond, of the City of Toronto, in the County of York, of the Province of Canada, publisher; Have made, constituted and appointed, and by these presents, do make, constitute and appoint Horatio Otis, of the Village of , in the County of , of the said Province, tinsmith, my true and lawful attorney, for me, and in my name, place and stead, [*here set forth what the Power is granted for;*] To enter into and take possession of all the lands, tenements, hereditaments and premises whatsoever, in the Town of , in the County of , and Province aforesaid, to or in which I am or may be in any way entitled or interested: And to grant, bargain and sell the same, or any part or parcel thereof, for such sum or price and on such terms as he shall think advisable, and for my benefit, and for me, and in my name, to make, execute and deliver good and sufficient deeds and conveyances for the same, with the usual covenants and warranty; And until the sale thereof, my attorney is hereby authorized to lease the said real estate, on the most advantageous terms; and ask, demand, distrain for, collect, recover, and receive, all monies or sums of money which shall become due and owing to me, by means of such bargain and sale, or lease; Giving and granting unto my said attorney, full power and authority to do and perform all and every act and thing whatsoever, requisite and necessary to be done, in and about the premises, as fully, to all intents and purposes, as I might or could do if personally present; With full power of substitution and revocation, hereby ratifying and confirming all that my said attorney, or his substitute, shall lawfully do, or cause to be done, by virtue hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and .
 Signed, Sealed and Delivered, }
 in presence of WELLINGTON H. RICHMOND. [Seal.]
 JOHN ADAMSON, }
 HENRY MATHERSON. }

Know
 the Villag
 Province
 authority
 ton Harri
 York, and
 substitute
 to do, perf
 or could d
 being the
 Wellington
 ing all that
 appointed,
 said letter

IN WITN
 my seal, th
 one thousa
 Signed, Se
 in pres
 CHAI
 PETE

KNOW AL
 the Town o
 Province of
 pointed, and
 Joseph Tur
 Wentworth,
 attorney, for
 what the po
 Custom-Hou
 goods, wares
 hereafter arri
 and to seal a
 bonds which
 Hamilton, in
 such goods, w
 seal and deli
 bonds requisit
 or merchandi
 business at th
 after be intere
 present. AND
 executed by m
 signed by mys
 virtue until re
 lector,

CUSTOM-HOUSE POWER.

SUBSTITUTION OF AN ATTORNEY.

KNOW ALL MEN BY THESE PRESENTS: That I, Horatio Otis, of the Village of _____, in the County of _____, of the Province of Canada, tinsmith, By virtue of the power and authority to me given, in and by the letter of attorney of Wellington Harrison Richmond, of the City of Toronto, in the County of York, and Province aforesaid, which is hereunto annexed, Do substitute and appoint Joseph Wilson, of the Village of _____, to do, perform and execute, every act and thing which I might or could do, in, by and under the said power, as well for me as being the true and lawful attorney and substitute of the said Wellington Harrison Richmond; Hereby ratifying and confirming all that the said attorney and substitute, hereby made and appointed, shall do in the premises, by virtue hereof and of the said letter of attorney.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Signed, Sealed and Delivered,

in presence of

CHARLES DAILY,

PETER HILL.

HORATIO OTIS.

[Seal.]

CUSTOM-HOUSE POWER.

KNOW ALL MEN BY THESE PRESENTS: That I, Charles Brown, of the Town of _____, in the County of _____, of the Province of Canada, merchant; Have made constituted and appointed, and by these presents do make, constitute and appoint, Joseph Turnbull, of the City of Hamilton, in the County of Wentworth, of the said Province, gentleman, my true and lawful attorney, for me, and in my name, place and stead, [*here set forth what the power is granted for*]; To receive and enter at the Custom-House at Hamilton, in the County of Wentworth, any goods, wares, or merchandize, imported by me, or which may hereafter arrive, that are consigned to me: To sign my name, and to seal and deliver, for me, as my act and deed, any bond or bonds which may be required by the Collector of Customs at Hamilton, in the County aforesaid, for securing the duties on any such goods, wares, or merchandize: Also, to sign my name, to seal and deliver for me, and as my act and deed, any bond or bonds requisite for obtaining the debenture on any goods, wares, or merchandize when exported; and generally to transact all business at the said Custom-House, in which I am or may hereafter be interested or concerned, as fully as I could if personally present. AND I DO HEREBY DECLARE, That all bonds signed and executed by my said attorney, shall be as binding on me as those signed by myself, and this power shall remain in full force and virtue until revoked by a written notice given to the said Collector,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this _____ day of _____, in the year of our Lord one thousand eight hundred and _____.

Signed, Sealed and Delivered,
in presence of
ANDREW BOYD,
OLIVER KERR.

CHARLES BROWN. [Seal.]

POWER TO TRANSFER SHARES.

KNOW ALL MEN BY THESE PRESENTS: That I, Edward Westover, of the Town of _____, in the County of _____, of the Province of Canada, contractor; Do hereby constitute and appoint James Rich, of the Town of _____, in the County and Province aforesaid, yeoman, my true and lawful attorney, for me, and in my name and behalf, to Bargain, Sell, assign and transfer to Adam Jones, of the City of _____, in the said Province, the whole, or any part of the Forty Shares of the Capital Stock, standing in my name, on the books of the _____ Bank, (or Company,) and for that purpose to make and execute all necessary acts of assignment or sell and transfer the same or any part thereof as aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this _____ day of _____, A. D. 185 _____.

Signed, Sealed and Delivered,
in presence of
PETER DEVLIN,
ISAAC MURPHY.

EDWARD WESTOVER. [Seal.]

POWER TO ACCEPT OF TRANSFERS OF STOCK;

Of the Bank of _____, or A Company, giving the Title of the Company.

KNOW ALL MEN BY THESE PRESENTS: That I, (or we,) of _____, Do make, constitute and appoint John Mills, of _____, my (or our) true and lawful attorney, for me (or us), in my (or our) name, and on my (or our) behalf; To accept all such transfers as are, or may hereafter be made, unto me (or us) of any interest or share in the Capital or Joint Stock, of the (here give the name of the Bank or Company, as the case may be;) To receive and give receipts for all dividends that are now due, and that shall hereafter become due and payable for the same, for the time being; to sell, assign and transfer all or any part of my (or our) said Stock, to receive the consideration money, and give a receipt, or receipts for the same, and to vote at all elections; and generally to do all lawful acts requisite for effecting the premises; hereby ratifying and confirming all that my (or our) said attorney shall do therein; by virtue hereof.

IN WITNESS WHEREOF, I, (or we) have hereunto set my (or our) hand

hand and
day of
hundred
Signed, S
in p
P
A

TRA
I, Well
paid to m
bargain, s
share (or
To hold to
curators,
and orders
immediate
AND I, t
the said
orders and
IN WITN
affixed our
our Lord o
Witnessed
OLIVER I
LORENZO

KNOW AL
of the City
Province of
nt Henry H
in the Coun
agent, for m
proxy, at an
Company,) a
vote, if ther
IN WITNES
hand, and af
A. D. 1854.

PROXY BY
A. B., of
Doth hereby
the County o
Proxy of the
any matter r

PROXY BY A SHAREHOLDER OR A CORPORATION.

hand and affixed my seal (or seals,) at _____, this
day of _____, in the year of our Lord one thousand eight
hundred and _____

Signed, Sealed and Delivered,

in presence of

PETER HENDERSON,

ANDREW STEVENS.

[Seal.]

TRANSFER OF MINING COMPANY SHARES.

I, Wellington Harrison, in consideration of the sum of
paid to me by John Edmonds, of _____, &c., Do hereby
bargain, sell and transfer to the said John Edmonds,
share (or shares) of the stock of the _____ Mining Company,
To hold to him the said John Edmonds, his heirs, executors,
curators, administrators and assigns, subject to the same rules
and orders, and on the same conditions that I held the same
immediately before the execution hereof.

And I, the said John Edmonds, do hereby agree and accept of
the said _____ share (or shares,) subject to the same rules,
orders and conditions.

IN WITNESS WHEREOF, We have hereunto set our hands and
affixed our seals, this _____ day of _____, in the year of
our Lord one thousand eight hundred and fifty.

Witnessed by

OLIVER DANIELS,

LORENZO HILL.

WELLINGTON HARRISON. [Seal.]

PROXY.

KNOW ALL MEN BY THESE PRESENTS: That I, Cornelius Smith,
of the City of _____, in the County of _____, of the
Province of Canada, gentleman; Do hereby constitute and appoi-
nt Henry Holden, of the Town (or City of) _____,
in the County and Province aforesaid, to be my attorney and
agent, for me, and in my name, place, and stead, to vote as my
proxy, at any election of Directors of the _____ Bank (or
Company,) according to the number of votes I should be entitled
vote, if then personally present.

IN WITNESS WHEREOF, I the undersigned, have hereunto set my
hand, and affixed my seal, at _____, this _____ day of _____,
A. D. 1854.

CORNELIUS SMITH.

[Seal.]

PROXY BY A SHAREHOLDER OR A CORPORATION.

A. B., of Brantford, one of the Shareholders of the Company;
Doth hereby appoint Lewis Shaw, of the City of Hamilton, in
the County of Wentworth, of the Province of Canada, To be
Proxy of the said A. B., in his absence, to vote in his name upon
any matter relating to the undertaking proposed, at the meeting
of _____

of the Shareholders of the Company, to be held on the day of next, in such matter as the said Lewis Shaw doth think proper.

IN WITNESS WHEREOF, the said A. B., doth hereunto set his hand (or, if the Corporation, say, the Common Seal of the Corporation,)

Dated at , this day of , A. D. 185 .
A. B., [Seal.]

A DIRECTOR'S PROXY.

I hereby appoint Charles Hall, of the City of Toronto, in the County of York, in the Province of Canada, Esquire, one of the Directors of the [here name the Bank or Company:] To be my Proxy, as Director of the said Bank or Company, as the case may be; And as such proxy to vote for me at all meetings of the directors of the said company, and generally to do all that I could myself do as such Director, if personally present at such meeting.

IN WITNESS WHEREOF, I the undersigned, have hereunto set my hand and affixed my seal, at , this day of
A. D. 1851. JOHN WALKER. [Seal.]

(Director not to act for more than three Directors.)

STATEMENT OF THE LIABILITIES AND ASSETS OF A BANK.

Statement of the Liabilities and Assets of the Bank of
, on the day of , 185 .

LIABILITIES.

Bank Notes in circulation not bearing interest....£	:	:
Bills of Exchange in circulation not bearing interest	:	:
Bills and Notes in circulation bearing interest....	:	:
Balances due to other Banks.....	:	:
Cash deposits not bearing interest.....	:	:
Cash deposits bearing interest.....	:	:
Other liabilities, if any, stating their nature.....	:	:

Total liabilities.....£

ASSETS.

Coin and Bullion.....£	:	:
Landed or other property of the Bank.....	:	:
Government Securities.....	:	:
Bank Notes, or Promissory Notes and Bills of other Banks	:	:
Balances due from other Banks.....	:	:
Notes and Bills discounted or other debts due to the Bank, not included under the foregoing heads, and believed to be good.....	:	:

Total Assets.....£ : :

Established
By
the pas
be take
in Upp
hereina
For int
forma
deme
For ea
Defere
For a S
charg
names
Subpa
For ever
one to
For ever
Canad
Shillin
For infor
behavio
Six Pe
For Warr
or good
and Six
III. And
cases of co
by any S
shall be as
For inform
tion and
For every
Defendan
For every
section o
For Hearin
Pence;
For Warran
For making
ordered to
Shillings.
Provided
proceeding
higher pena

FEES TO JUSTICES OF THE PEACE, (C. W.)

Established by an Act of 14 & 15 Vict., Cap. 119, 1851.

BY THE SECOND SECTION: It is enacted, That from and after the passing of this Act, the following Fees, and no other, shall be taken from the parties prosecuting, by Justices of the Peace in Upper Canada, or by their Clerks, for the duties and services hereinafter mentioned, that is to say:

For information and Warrant for apprehension, or for an information and Summons for assault, trespass, or other misdemeanor, Two Shillings and Sixpence;

For each Copy of Summons to be served on Defendant or Defendants, Six Pence;

For a *Subpœna*, Six Pence,—only one on each side is to be charged for on each case, which may contain any number of names; and if the justice of the case shall require it, additional *Subpœnas* shall be issued without charge;

For every Recognizance, One Shilling and Three Pence,—only one to be charged in each case;

For every Certificate of Recognizance under the Act of Upper Canada, Seventh William the Fourth, chapter ten, One Shilling and Three Pence;

For information and Warrant for surety of the peace or good behaviour, to be paid by complainant, Two Shillings and Six Pence;

For Warrant of Commitment for default of surety to keep peace or good behaviour, to be paid by complainant, Two Shillings and Six Pence;

III. And be it enacted, That the costs to be charged in all cases of convictions, where the Fees are not expressly prescribed by any Statute, other than the Statute hereinbefore repealed, shall be as follows, that is to say:

For information and Warrant for apprehension, or for information and Summons for service, Two Shillings and Six Pence;

For every Copy of Summons to be served upon Defendant or Defendants, Six Pence;

For every *Subpœna* to a Witness, (as provided in the second section of this Act,) Six Pence;

For Hearing and Determining the case, Two Shillings and Six Pence;

For Warrant to levy Penalty, One Shilling and Three Pence;

For making up every Record of Conviction when the same is ordered to be returned to the Sessions, or on *Certiorari*, Five Shillings.

Provided always, That in all such cases as admit of a summary proceeding before a single Justice of the Peace, and wherein no higher penalty than Five Pounds can be imposed, the sum of

Two Shillings and Six Pence only shall be charged for the conviction, and One Shilling and Three Pence for the Warrant to levy the Penalty; and that in all cases where persons are *sub-panaed* to give evidence before Justices of the Peace in case of assault, trespass or misdemeanor, such Witness shall be entitled, in the discretion of the Magistrate, to receive at the rate of Two Shillings and Six Pence for every day's attendance, where the distance travelled in coming to and returning from such adjudication does not exceed ten miles, and Three Pence for each mile above ten.

Every Bill of Costs, when demanded to be made out in detail, when demanded, Six Pence;

Copy of any other paper connected with any trial, and the Minutes of the same if demanded,—every folio of one hundred words, Six Pence.

SUMMARY CONVICTIONS ACT, (C.W.) 16 VICT. 1853.

CAP. CLXXVIII.

AN ACT TO FACILITATE THE PERFORMANCE OF THE DUTIES OF JUSTICES OF THE PEACE, OUT OF SESSIONS, IN CANADA WEST, WITH RESPECT TO SUMMARY CONVICTIONS AND ORDERS.

[Assented to, 14th June, 1853.]

WHEREAS it would conduce much to the improvement of the administration of justice within that part of this Province called Upper Canada, so far as respects Summary Convictions and Orders to be made by Her Majesty's Justices of the Peace therein, if the several Statutes and parts of Statutes relating to the duties of such Justices in respect of such Summary Convictions and Orders were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore enacted, &c., That in all cases where an Information shall be laid before one or more of Her Majesty's Justices of the Peace for any Territorial Division in Upper Canada, that any person has committed or is suspected to have committed any offence or act within the jurisdiction of such Justice or Justices of the Peace, for which he is liable by law upon a Summary Conviction for the same before a Justice or Justices of the Peace, to be imprisoned or fined or otherwise punished;

punished
to any
shall be
of mon
for such
Summon
matter
appear
Justices
Territori
informat
to law;
or other
be deliv
deliverin
same wit
of abode
serve the
place, an
to depose
Provided
any Justic
in any cas
by law to
shall be t
Summons,
or for any
Summons,
or Complai
as hereinaf
to the Just
be such th
thereby dec
or Justices,
adjourn the
II. And b
Summons as
or Justices a
and it shall
oath or affir
be deemed b
before the ti
then it shall
shall think fr
or them, su
complaint to
(B) to appreh

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

punished; and also in all cases where a complaint shall be made to any such Justice or Justices, upon which he or they have or shall have authority by law to make any Order for the payment of money or otherwise, then in every such case it shall be lawful for such Justice or Justices of the Peace to issue his or their Summons (A), directed to such person, stating shortly the matter of such information or complaint, and requiring him to appear at a certain time and place, before the same Justice or Justices, or before such other Justice or Justices for the same Territorial Division as shall then be there, to answer to the said information or complaint, and to be further dealt with according to law; and every such Summons shall be served by a Constable or other Peace Officer, or other person to whom the same shall be delivered, upon the person to whom it is so directed, by delivering the same to the party personally, or by leaving the same with some person for him, at his last or most usual place of abode; and the Constable, Peace Officer, or person who shall serve the same in manner aforesaid, shall attend at the time and place, and before the Justices in the said Summons mentioned, to depose, if necessary, to the service of the said Summons; Provided always, that nothing herein mentioned shall oblige any Justice or Justices of the Peace to issue any such Summons in any case where the application for any Order of Justices is by law to be made *ex parte*: Provided also, that no objection shall be taken or allowed to any Information, Complaint or Summons, for any alleged fact therein, in substance or in form, or for any variance between such Information, Complaint or Summons, and the evidence adduced on the part of the Informant or Complainant at the hearing of such information or complaint as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

II. And be it enacted, That if the person so served with a Summons as aforesaid shall not be and appear before the Justice or Justices at the time and place mentioned in such Summons, and it shall be made to appear to such Justice or Justices, by oath or affirmation, that such Summons was so served what shall be deemed by such Justice or Justices to be a reasonable time before the time therein appointed for appearing to the same, then it shall be lawful for such Justice or Justices, if he or they shall think fit, upon oath or affirmation being made before him or them, substantiating the matter of such information or complaint to his or their satisfaction, to issue his or their Warrant (B) to apprehend the party so summoned, and to bring him before the

the same Justice or Justices or before some other Justice or Justices of the Peace in and for the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law; or upon such information being laid as aforesaid for any offence punishable on conviction, the Justice or Justices before whom such information shall have been laid may, if he or they shall think fit, upon oath or affirmation being made before him or them substantiating the matter of such information to his or their satisfaction, instead of issuing such Summons as aforesaid, issue in the first instance his or their Warrant (C) for apprehending the person against whom such information shall have been so laid, and bringing him before the same Justice or Justices, or before some other Justice or Justices of the Peace in and for the same Territorial Division, to answer to the said information, and to be further dealt with according to law; or if where a Summons shall be so issued as aforesaid, and upon the day and at the place appointed in and by the said Summons for the appearance of the party so summoned, such party shall fail to appear accordingly in obedience to such Summons, then and in every such case, if it be proved upon oath or affirmation to the Justice or Justices then present, that such Summons was duly served upon such party a reasonable time before the time so appointed for his appearance as aforesaid, it shall be lawful for such Justice or Justices of the Peace to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon, as fully and effectually to all intents and purposes as if such party had personally appeared before him or them in obedience to the said Summons.

III. And be it enacted, That every such Warrant to apprehend a Defendant, that he may answer to such information or complaint as aforesaid, shall be under the Hand and Seal or Hands and Seals of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the Territorial Division within which the same is to be executed, or to such Constable and all other Constables within the Territorial Division within which the Justice or Justices issuing such Warrant hath or have jurisdiction, or generally to all Constables within such last mentioned Territorial Division; and it shall state shortly the matter of the information or complaint on which it is founded, and shall name or otherwise describe the person against whom it has been issued, and it shall order the Constable or other Peace Officer to whom it is directed, to apprehend the said Defendant, and to bring him before one or more Justice or Justices of the Peace, as the case may require, of the same Territorial Division, to answer to the said information or complaint, and to be further dealt with according to law; and

and that
able at a
force un
executed
the Terr
same sha
place in
miles of
without h
and in a
Constable
within w
jurisdiction
Officer fo
which suc
granted su
as if such
by name,
Warrant
which he
person ag
found with
it was iss
supposed o
whether in
the Justice
Peace with
suspected
hand-writin
may make
thorizing th
and such er
bringing th
originally d
of the Terr
execute the
Justice of t
der, when a
issued the V
diction; Pro
allowed to
issued upon
under or by
substance or
evidence ad
as hereinaft
pear to the J
to be such th

and that it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in full force until it shall be executed; and such Warrant may be executed by apprehending the Defendant at any place within the Territorial Division within which the Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, within seven miles of the border of such first mentioned Territorial Division without having such Warrant backed as hereinafter mentioned; and in all cases in which such Warrant shall be directed to all Constables or Peace Officers within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, it shall be lawful for any Constable or Peace Officer for any place within the limits of the jurisdiction for which such Justice or Justices shall have acted when he or they granted such Warrant, to execute such Warrant in like manner as if such Warrant were directed specially to such Constable by name, and notwithstanding that the place in which such Warrant shall be executed, shall not be within the place for which he shall be such Constable or Peace Officer; and if the person against whom any such Warrant has been issued be not found within the jurisdiction of the Justice or Justices by whom it was issued, or if he shall escape, go into, reside or be, or be supposed or suspected to be in any place within this Province, whether in Upper or Lower Canada, out of the jurisdiction of the Justice or Justices issuing the Warrant, any Justice of the Peace within whose jurisdiction such person shall be or be suspected to be as aforesaid, upon proof alone upon oath of the hand-writing of the Justice or Justices issuing the Warrant, may make an endorsement upon it, signed with his name, authorizing the execution of the Warrant within his jurisdiction; and such endorsement shall be a sufficient authority to the person bringing the Warrant, and to all other persons to whom it was originally directed, and to all Constables or other Peace Officers of the Territorial Division where the endorsement is made, to execute the same in any place within the jurisdiction of the Justice of the Peace endorsing the same, and to carry the offender, when apprehended, before the Justice or Justices who first issued the Warrant or some other Justice having the same jurisdiction; Provided always, that no objection shall be taken or allowed to any such Warrant to apprehend a Defendant, so issued upon any such information or complaint as aforesaid under or by virtue of this Act, for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Informant or Complainant as hereinafter mentioned; but if any such variance shall appear to the Justice or Justices present and acting at such hearing, to be such that the party so apprehended under such Warrant has

has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said Defendant to the Common Gaol or any other prison, Lock-up House, or place of security, within the Territorial Division or place within which the said Justice or Justices may be acting, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a Defendant shall be discharged upon Recognizance as aforesaid, and shall not afterwards appear at the time and place in such Recognizance mentioned, then the said Justice, who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) upon the back of the said Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

IV. And be it enacted, That in any information or complaint or proceedings thereon, in which it shall be necessary to state the ownership of any property belonging to or in the possession of partners, joint tenants, parceners or tenants in common, it shall be sufficient to name one of such persons, and to state the property to belong to the person so named and another or others, as the case may be; and whenever in any information or complaint, or the proceedings thereon, it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and whenever in any such information or complaint, or the proceedings thereon, it shall be necessary to describe the ownership of any work or building made, maintained or repaired at the expense of any Territorial Division, or of any materials for the making, altering or repairing the same, they may be therein described as the property of the inhabitants of such Territorial Division respectively.

V. And be it enacted, That every person who shall aid, abet, counsel or procure the commission of any offence which is or hereafter shall be punishable on Summary Conviction, shall be liable to be proceeded against and convicted for the same, either together with the principal offender, or before or after his conviction, and shall be liable, on conviction, to the same

forfeiture
shall be
convicted
such pr
such off
have be

VI. A

any Just
dible per
is likely
Complain
pear as a
of such i
required
his Hanc
time and
tice, or b
same Ter
he shall k
if any per
the time s
excuse sh
proof upon
served up
same for h
abode) it s
such perso
under his e
at a time a
who issued
Justices of
be then the
may, if nec
to its being
shall have
by evidence
person will
so to do, the
for him to is
if necessary
ance of such
Justice or J
being broug
such person
concerning
affirmation,
to answer su

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

forfeiture and punishment as such principal offender is or shall be by law liable, and may be proceeded against and convicted either in the Territorial Division or place where such principal offender may be convicted, or in that in which such offence of aiding, abetting, counselling or procuring may have been committed.

VI. And be it enacted, That if it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such Justice is likely to give material evidence on behalf of the Prosecutor or Complainant or Defendant, and will not voluntarily be and appear as a witness at the time and place appointed for the hearing of such information or complaint, such Justice may, and is hereby required to issue his Summons (G 1,) to such person, under his Hand and Seal, requiring him to be and appear at the time and place mentioned in such Summons, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify what he shall know concerning the said information or complaint; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said Summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such Summons having been served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode) it shall be lawful for the Justice or Justices before whom such person should have appeared, to issue a Warrant (G 2,) under his or their Hands and Seals, to bring and have such person at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as shall be then there, to testify as aforesaid, and which said Warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who shall have issued the same; or if such Justice shall be satisfied, by evidence upon oath or affirmation, that it is probable that such person will not attend to give evidence without being compelled so to do, then instead of issuing such Summons it shall be lawful for him to issue his Warrant (G 3,) in the first instance, and which, if necessary, may be backed as aforesaid; and if on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to such Summons or upon being brought before him or them by virtue of the said Warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation, shall refuse to answer such questions concerning the premises as shall then be

be put to him, without offering any just excuse for such refusal, any Justice of the Peace then present, and having jurisdiction, may, by Warrant [G 4,] under his Hand and Seal, commit the person so refusing to the Common Gaol for the Territorial Division where such person refusing shall then be, there to remain and be imprisoned for any time not exceeding ten days, unless he shall, in the meantime, consent to be examined and to answer concerning the premises.

VII. And be it enacted, That in all cases of complaint upon which a Justice or Justices of the Peace may make an Order for the payment of money or otherwise, such complaint shall be in writing, and on oath, unless it shall be enacted or provided to the contrary by some particular Act of Parliament upon which such complaint shall be framed.

VIII. And be it enacted, That in all cases of informations for any offences or acts punishable upon Summary Conviction, any variance between such information and the evidence adduced in support thereof as to the time at which such offence or act shall be alleged to have been committed, shall not be deemed material if it be proved that such information was in fact laid within the time limited by law for laying the same; and any variance between the said information and the evidence adduced in support thereof, as to the place in which the offence or act shall be alleged to have been committed, shall not be deemed material, provided the offence or act be proved to have been committed within the jurisdiction of the Justice or Justices by whom such information shall be heard and determined; and if any such variance, or any variance in any other respect between such information and the evidence adduced in support thereof, shall appear to the Justice or Justices present and acting at the hearing, to be such that the party charged by such information has been thereby deceived or misled, it shall be lawful for such Justice or Justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit (D) the said Defendant to the Common Gaol or other prison, Lock-up House or place of security, or to such other custody as the said Justice or Justices shall think fit, or to discharge him upon his entering into a Recognizance (E) with or without Surety or Sureties, at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned: Provided always, that in all cases where a Defendant shall be discharged upon Recognizance as aforesaid, and shall not afterwards appear at the time and place in such Recognizance mentioned, then the said Justice who shall have taken the said Recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) upon the back of the said Recognizance the non-appearance of the Defendant, may

transm
Territo
been tr
nizance
facie ev

IX. A
plaint u
or shall
informa
Convict
otherwis
affirmat
tions wh
upon iss
the Defe
or Justic
the matt
or affirm
on his be
such com
not for tw
mation sh
offences,
or made b
Counsel o

X. And
or shall he
plaint or l
liament re
made, and
months fro
information

XI. And
tion shall
two or mor
by the Act
information
ment as the
direction in
information
any one Jus
such inform
or place in
try any such
and public C
far as the sa

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

transmit such Recognizance to the Clerk of the Peace of the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

IX. And be it declared and enacted, That every such complaint upon which a Justice or Justices of the Peace is, or are or shall be authorized by law to make an Order, and that every information for any offence or act punishable upon Summary Conviction, (unless some particular Act of Parliament shall otherwise permit,) shall respectively be made or laid on oath or affirmation as to the truth thereof, and in all cases of informations where the Justice or Justices receiving the same shall thereupon issue his or their Warrant in the first instance, to apprehend the Defendant as aforesaid; and in every case where the Justice or Justices shall issue his or their Warrant in the first instance, the matter of such information shall be substantiated by the oath or affirmation of the informant, or by some witness or witnesses on his behalf before any such Warrant shall be issued, and every such complaint shall be for one matter of complaint only, and not for two or more matters of complaint, and every such information shall be for one offence only, and not for two or more offences, and every such complaint or information may be laid or made by the Complainant or Informant in person, or by his Counsel or Attorney, or other person authorized in that behalf.

X. And be it enacted, That in all cases where no time is already or shall hereafter be specially limited for making any such complaint or laying any such information, in the Act or Acts of Parliament relating to such particular case, such complaint shall be made, and such information shall be laid within six calendar months from the time when the matter of such complaint or information respectively arose.

XI. And be it enacted, That every such complaint or information shall be heard, tried, determined and adjudged by one or two or more Justice or Justices of the Peace, as shall be directed by the Act or Acts of Parliament upon which such complaint or information shall be framed, or such other Act or Acts of Parliament as there may be in that behalf; and if there be no such direction in any such Act of Parliament, then such complaint or information may be heard, tried, determined and adjudged by any one Justice for the Territorial Division, where the matter of such information or complaint shall have arisen; and the room or place in which such Justice or Justices shall sit to hear and try any such complaint or information, shall be deemed an open and public Court to which the public generally may have access, so far as the same can conveniently contain them; and the party

against

against whom such complaint is made or information laid, shall be admitted to make his full answer and defence thereto and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf; and every Complainant or Informant in any such case shall be at liberty to conduct such complaint or information respectively and to have the witnesses examined and cross-examined by Counsel or Attorney on his behalf.

XII. And be it enacted, That if at the day and place appointed in and by the Summons aforesaid for hearing and determining such complaint or information, the Defendant against whom the same shall have been made or laid, shall not appear when called, the Constable or other person who shall have served him with the Summons in that behalf, shall then declare upon oath in what manner he served the said Summons; and if it appear to the satisfaction of the Justice or Justices that he duly served the said Summons, in that case such Justice or Justices may proceed to hear and determine the case in the absence of such Defendant, or the said Justice or Justices, upon the non-appearance of such Defendant as aforesaid, may if he or they think fit, issue his or their Warrant in manner hereinbefore directed, and shall adjourn the hearing of such complaint or information until the said Defendant shall be apprehended; and when such Defendant shall afterwards be apprehended under such Warrant he shall be brought before the same Justice or Justices, or some other Justice or Justices of the Peace for the same Territorial Division, who shall thereupon, either by his or their Warrant (H) commit such Defendant to the Common Gaol or other prison, Lock-up House or place of security, or if he or they think fit, verbally to the custody of the Constable or other person who shall have apprehended him, or to such other safe custody as he or they shall deem fit, and order the said Defendant to be brought up at a certain time and place before such Justice or Justices of the Peace as shall then be there, of which said Order the Complainant or Informant shall have due notice; or if upon the day and at the place so appointed as aforesaid, such Defendant shall appear voluntarily in obedience to the Summons in that behalf served upon him, or shall be brought before the said Justice or Justices by virtue of any Warrant, then, if the said Complainant or Informant, having had due notice as aforesaid, do not appear by himself, his Counsel or Attorney, the said Justice or Justices shall dismiss such complaint or information, unless for some reason he or they shall think proper to adjourn the hearing of the same until some other day, upon such terms as he or they shall think fit, in which case such Justice or Justices may commit (D) the Defendant in the meantime to the Common Gaol or other Prison, Lock-up House or place of security, or to such other custody as such Justice or Justices shall think fit, or may discharge him upon his entering

into a
the di
peara
so adj
at the
said J
Justice
ing (F
the De
the Pe
shall h
other R
cient p
Defend
their re
tices w
tion, the
determin

XIII.
present
complain
any caus
Order sh
if he the
and shew
convicted
the case
hearing,
ingly; b
complain
proceed t
nesses as
adduce in
and also t
examine,
fence, and
plainant
examined
his the D
Complain
reply upon
Defendant
the eviden
reply as af
what each
and eviden
termine the

into a recognizance (E) with or without Surety or Sureties at the discretion of such Justice or Justices, conditioned for his appearance at the time and place to which such hearing shall be so adjourned; and if such Defendant shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division in which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant; but if both parties appear, either personally or by their respective Counsel or Attorneys, before the Justice or Justices who are to hear and determine such complaint or information, then the said Justice or Justices shall proceed to hear and determine the same.

XIII. And be it enacted, That when such Defendant shall be present at such hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he have any cause to show why he should not be convicted, or why an Order should not be made against him, as the case may be; and if he thereupon admit the truth of the information or complaint, and shew no cause or no sufficient cause why he should not be convicted, or why an Order should not be made against him, as the case may be, then the Justice or Justices present at the said hearing, shall convict him or make an Order against him accordingly; but if he do not admit the truth of such information or complaint as aforesaid, then the said Justice or Justices shall proceed to hear the Prosecutor or Complainant and such witnesses as he may examine, and such other evidence as he may adduce in support of his information or complaint respectively, and also to hear the Defendant and such witnesses as he may examine, and such other evidence as he may adduce in his defence, and also to hear such witnesses as the Prosecutor or Complainant may examine in reply, if such Defendant shall have examined any witnesses or given any evidence other than as to his the Defendant's general character; but the Prosecutor or Complainant shall not be entitled to make any observations in reply upon the evidence given by the Defendant, nor shall the Defendant be entitled to make any observations in reply upon the evidence given by the Prosecutor or Complainant in reply as aforesaid; and the said Justice or Justices, having heard what each party shall have to say as aforesaid, and the witnesses and evidence so adduced, shall consider the whole matter and determine the same, and shall convict or make an Order upon the Defendant

Defendant or dismiss the information or complaint, as the case may be; and if he or they convict or make an Order against the Defendant, a Minute or Memorandum thereof shall then be made for which no fee shall be paid, and the conviction (I 1, 3,) or Order (K 1, 3,) shall afterwards be drawn up by the said Justice or Justices in proper form, under his or their Hand and Seal or Hands and Seals, and he or they shall cause the same to be lodged with the Clerk of the Peace to be by him filed among the Records of the General or Quarter Sessions of the Peace; or if the said Justice or Justices shall dismiss such information or complaint, it shall be lawful for such Justice or Justices, when required so to do, to make an Order of Dismissal of the same (L) and shall give the Defendant on that behalf a Certificate thereof (M) which said Certificate afterwards upon being produced, without further proof, shall be a bar to any subsequent information or complaint for the same matters respectively, against the same party: Provided always, that if the information or complaint in any such case shall negative any exemption, exception, proviso or condition in the Statute on which the same shall be framed, it shall not be necessary for the Prosecutor or Complainant in that behalf to prove such negative, but the Defendant may prove the affirmative thereof in his defence, if he would have advantage of the same.

XIV. And be it enacted, That every Prosecutor of any such information, not having any pecuniary interest in the result of the same, and every Complainant in any such complaint as aforesaid, whatever his interest may be in the result of the same, shall be a competent witness to support such information or complaint respectively, and every witness at any such hearing as aforesaid shall be examined upon oath or affirmation, and the Justice or Justices before whom any such witness shall appear for the purpose of being so examined, shall have full power and authority to administer to every such witness the usual oath or affirmation.

XV. And be it enacted, That before or during such hearing of any such information or complaint, it shall be lawful for any one Justice or for the Justices present, in their discretion, to adjourn the hearing of the same to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or of their respective Attorneys or Agents then present, and in the meantime the said Justice or Justices may suffer the Defendant to go at large, or may commit (D) him to the Common Gaol or other prison, Lock-up House or other place of security within the Territorial Division for which such Justice or Justices shall then be acting, or to such other safe custody as the said Justice or Justices shall think fit, or may discharge such Defendant upon his Recognizance (E) with or without Sureties at the discretion of such Justice or Justices, conditioned for his

appeal
ther
place
adjourn
person
tively,
Justice
for the
hearing
sent; o
said Ju
plaint v
Provide
discharg
afterwa
cogniza
taken t
who ma
of the R
may tra
the Terr
been tal
Recogni
prima f
Defendan

XVI. No partic
Statute c
same, and
ed, wheth
given or
shall so c
ment or c
in the Sc
such case
made, an
the Statu
all cases
Statutes h
shall there
Justices b
same in s
dule to th
or to the li
liament au
levy any s
ing any O

appearance at the time and place to which such hearing or further hearing shall be adjourned; and if, at the time or place to which such hearing or further hearing shall be so adjourned, either or both of the parties shall not appear personally or by his or their Counsel or Attorneys respectively, before the said Justice or Justices, or such other Justice or Justices as shall then be there, it shall be lawful for the Justice or Justices then there present to proceed to such hearing or further hearing as if such party or parties were present; or if the Prosecutor or Complainant do not appear, the said Justice or Justices may dismiss the said information or complaint with or without costs as to such Justices shall seem fit: Provided always, that in all cases when a Defendant shall be discharged upon his Recognizance as aforesaid, and shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice or Justices who shall have taken the said Recognizance, or any other Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of such accused party; may transmit such Recognizance to the Clerk of the Peace for the Territorial Division in which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

XVI. And be it enacted, That in all cases of conviction where no particular form of such conviction is or shall be given by the Statute creating the offence or regulating the prosecution for the same, and in all cases of conviction upon Statutes hitherto passed, whether any particular form of conviction have been therein given or not, it shall be lawful for the Justice or Justices who shall so convict, to draw up his or their conviction, on parchment or on paper, in such one of the forms of conviction (I 1, 3,) in the Schedule of this Act contained as shall be applicable to such case, or to the like effect; and when an Order shall be made, and no particular form of Order shall be given by the Statute giving authority to make such Order, and in all cases of Orders to be made under the authority of any Statutes hitherto passed, whether any particular form of Order shall therein be given or not, it shall be lawful for the Justice or Justices by whom such Order is to be made, to draw up the same in such one of the forms of Orders (K 1, 3,) in the Schedule to this Act contained, as may be applicable to such case, or to the like effect; and in all cases when by an Act of Parliament authority is given to commit a person to prison, or to levy any sum upon his goods or chattels by distress, for not obeying any Order of a Justice or Justices, the Defendant shall be served

served with a copy of the Minute of such Order before any Warrant of Commitment or of Distress shall issue in that behalf, and such Order or Minute shall not form any part of such Warrant of Commitment or Distress.

XVII. And be it enacted, That in all cases of Summary Conviction or of Orders made by a Justice or Justices of the Peace, it shall be lawful for the Justice or Justices making the same, in his or their discretion, to award and order in and by such Conviction or Order that the Defendant shall pay to the Prosecutor or Complainant respectively such costs as to the said Justice or Justices shall seem reasonable in that behalf, and not inconsistent with the Fees established by law to be taken on proceedings had by and before Justices of the Peace under the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to establish an uniform rate of Fees to be received by Justices of the Peace in Upper Canada, and to repeal the Act of Upper Canada, passed in the fourth year of the Reign of King William the Fourth, chapter seventeen*, or with the provisions of any other Act or Law in force in Upper Canada regulating fees or costs in proceedings before Justices of the Peace; and in cases where such Justice or Justices, instead of convicting or making an Order as aforesaid, shall dismiss the information or complaint, it shall be lawful for him or them in his or their discretion in and by his or their Order of Dismissal, to award and order that the Prosecutor or Complainant, respectively, shall pay to the Defendant such costs as to the said Justice or Justices shall seem reasonable and according to law as aforesaid; and the sums so allowed for costs shall in all cases be specified in such Conviction or Order or Order of Dismissal as aforesaid, and the same shall be recoverable in the same manner and under the same Warrants as any penalty or sum of money adjudged to be paid in and by such Conviction or Order is to be recoverable, and in cases where there is no such penalty or sums of money to be thereby recovered, then such costs shall be recoverable by distress and sale of the goods and chattels of the party, and in default of such distress, by imprisonment, with or without hard labor, for any time not exceeding one calendar month, unless such costs shall be sooner paid.

XVIII. And be it enacted, That where a conviction adjudges a pecuniary penalty or compensation to be paid, or where an Order requires the payment of a sum of money, and by the Statute authorizing such Conviction or Order, such penalty, compensation or sum of money is to be levied upon the goods and chattels of the Defendant, by distress and sale thereof, and also in cases where, by the Statute in that behalf, no mode of raising or levying such penalty, compensation or sum of money,

or of
it sha
making
for the
tress
Warr
Seal o
such V
the sa
tress
the Jus
made
such V
ion, su
upon m
his Har
limits o
endorse
thereof
may be
person
ed, or
mentio
and cha
Provid
of the P
Warrant
be ruin
shall ap
dant or
to levy
lawful f
such W
person to
ritorial D
be acting
such time
be so cor
and no g
penalty o

XIX. A
the Peace
lawful for
or by a w
to be kep
made to s
give suffi

or of enforcing the payment of the same, is stated or provided, it shall be lawful for the Justice or any one of the Justices making such Conviction or Order, or for any Justice of the Peace for the same Territorial Division, to issue his Warrant of Distress (N 1, 2,) for the purpose of levying the same which said Warrant of Distress shall be in writing, under the Hand and Seal of the Justice making the same; and if, after delivery of such Warrant of Distress to the Constable or Constables to whom the same shall have been directed to be executed, sufficient distress shall not be found within the limits of the jurisdiction of the Justice granting such Warrant, then upon proof alone being made upon oath of the hand-writing of the Justice granting such Warrant, before any Justice of any other Territorial Division, such Justice of such other Territorial Division shall thereupon make an endorsement (N 3,) on such Warrant, signed with his Hand, authorizing the execution of such Warrant within the limits of his jurisdiction, by virtue of which said Warrant and endorsement the penalty or sum aforesaid and costs, or so much thereof as may not have been before levied or paid, shall and may be levied by the person bringing such Warrant, or by the person or persons to whom such Warrant was originally directed, or by any Constable or other Peace Officer of such last mentioned Territorial Division, by distress and sale of the goods and chattels of the Defendant in such other Territorial Division: Provided always that whenever it shall appear to any Justice of the Peace to whom application shall be made for any such Warrant of Distress as aforesaid, that the issuing thereof would be ruinous to the Defendant and his family, or whenever it shall appear to the said Justice, by the confession of the Defendant or otherwise, that he hath no goods and chattels whereon to levy such distress, then and in every such case it shall be lawful for such Justice, if he shall deem it fit, instead of issuing such Warrant of Distress, to commit such Defendant or other person to the Common Gaol, or Lock-up House within the Territorial Division within which such Justice or Justices shall then be acting, there to be imprisoned with or without hard labor, for such time and in such manner as by law such Defendant might be so committed, in case such Warrant of Distress had issued and no goods or chattels had been found whereon to levy such penalty or sum and costs aforesaid.

XIX. And be it enacted, That in all cases where a Justice of the Peace shall issue any such Warrant of Distress, it shall be lawful for him to suffer the Defendant to go at large, or verbally or by a written Warrant in that behalf, to order the Defendant to be kept and detained in safe custody, until Return shall be made to such Warrant of Distress, unless such Defendant shall give sufficient security, by Recognizance or otherwise, to the satisfaction

satisfaction of such Justice, for his appearance before him at the time and place appointed for the Return of such Warrant of Distress, or before such other Justice or Justices for the same Territorial Division as may then be there: Provided always, that in all cases where a Defendant shall give security by Recognizance as aforesaid, and shall not afterwards appear at the time and place in the said Recognizance mentioned, then the said Justice who shall have taken the said Recognizance, or any Justice or Justices who may then be there present, upon certifying (F) on the back of the Recognizance the non-appearance of the Defendant, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division within which the offence shall be laid to have been committed, to be proceeded upon in like manner as other Recognizances, and such Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said Defendant.

XX. And be it enacted, That if at the time and place appointed for the Return of any such Warrant of Distress, the Constable, who shall have had execution of the same, shall return (N 4.) that he could find no goods or chattels or no sufficient goods or chattels whereon he could levy the sum or sums therein mentioned, together with the costs of, or occasioned by, the levy of the same, it shall be lawful for the Justice of the Peace before whom the same shall be returned, to issue his Warrant of Commitment (N 5,) under his hand and Seal, directed to the same or any other Constable, reciting the Conviction or Order shortly, the issuing of the Warrant of Distress and the Return thereto, and requiring such Constable to convey such Defendant or other person to the Gaol or Lock-up House within the Territorial Division for which such Justice shall then be acting, and there to deliver him to the Keeper thereof, and requiring such Keeper to receive the Defendant into such Gaol or Lock-up House, and there to imprison him, or to imprison him and keep him to hard labor, in such manner and for such time as shall have been directed and appointed by the Statute on which the Conviction or Order mentioned in such Warrant of Distress was founded, unless the sum or sums adjudged to be paid, and all costs and charges of the distress, and also the costs and charges of the commitment and conveying of the Defendant to prison, if such Justice shall think fit so to order (the amount thereof being ascertained and mentioned in such commitment) shall be sooner paid.

XXI. And be it enacted, That where a Justice or Justices of the Peace shall, upon such information or complaint as aforesaid, adjudge the Defendant to be imprisoned, and such Defendant shall then be in prison undergoing imprisonment upon conviction for any other offence, the Warrant of Conviction for such subsequent offence shall, in every case, be forthwith delivered to the

Gaoler
it shall
he or th
that the
mence
fendant

XXII.
plaint s
shall be
levied b
cutor or
distress
commit
up Hou
calendar
the distr
secutor
ascertain
paid.

XXIII.
such Con
same sha
Justices v
tice of th
such Wan
tion of th
upon any
sions shall
such costs
to be by h
shall state
same shall
ordered to
conditioned
cation of th
behalf, and
the party s
been paid,
ice or Justic
shall be law
costs by W
default of
against who
inbefore me
months, unle
of the distr
veying of th

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

Gaoler or other Officer to whom the same shall be directed, and it shall be lawful for the Justice or Justices issuing the same, if he or they shall think fit, to award and order therein and thereby, that the imprisonment for such subsequent offence shall commence at the expiration of the imprisonment to which such Defendant shall have been previously adjudged or sentenced.

XXII. And be it enacted, That when any information or complaint shall be dismissed with costs as aforesaid, the sum which shall be awarded for costs in the Order for Dismissal, may be levied by distress (Q 1.) on the goods and chattels of the Prosecutor or Complainant in the manner aforesaid; and in default of distress or payment, such Prosecutor or Complainant may be committed (Q 2.) to the Common Gaol or other Prison or Lock-up House in manner aforesaid, for any time not exceeding one calendar month, unless such sum, and all costs and charges of the distress, and of the commitment and conveying of such Prosecutor or Complainant to Prison (the amount thereof being ascertained and stated in such commitment,) shall be sooner paid.

XXIII. And be it enacted, That after an appeal against any such Conviction or Order as aforesaid shall be decided, if the same shall be decided in favor of the Respondent, the Justice or Justices who made such Conviction or Order, or any other Justice of the Peace for the same Territorial Division, may issue such Warrant of Distress or Commitment as aforesaid for execution of the same, as if no such appeal had been brought, and if upon any such appeal to the Court of General or Quarter Sessions shall order either party to pay costs, such Order shall direct such costs to be paid to the Clerk of the Peace of such Court, to be by him paid over to the party entitled to the same, and shall state within what time such costs shall be paid; and if the same shall not be paid within the time so limited, and the party ordered to pay the same shall not be bound by any Recognizance conditioned to pay such costs, such Clerk of the Peace on application of the party entitled to such costs or of any person on his behalf, and on payment of a Fee of One Shilling, shall grant to the party so applying a Certificate [R] that such costs have not been paid, and upon production of such Certificate to any Justice or Justices of the Peace for the same Territorial Division, it shall be lawful for him or them to enforce the payment of such costs by Warrant of Distress [S 1.] in manner aforesaid, and in default of distress he or they may commit [S. 2.] the party against whom such Warrant shall have issued, in manner hereinbefore mentioned, for any time not exceeding two calendar months, unless the amount of such costs and all costs and charges of the distress, and also the costs of the commitment and conveying of the said party to prison, if such Justice or Justices shall

shall think fit so to order, [the amount thereof being ascertained and stated in such commitment,] shall be sooner paid.

XXIV. And be it enacted, That in all cases where a Warrant of Distress shall issue as aforesaid against any person, and such person shall pay or tender to the Constable having the execution of the same, the sum or sums in such Warrant mentioned, together with the amount of expenses of such Distress up to the time of such payment or tender, such Constable shall cease to execute the same; and in all cases in which any person shall be imprisoned as aforesaid for non-payment of any penalty or other sum, he may pay or cause to be paid to the Keeper of the Prison in which he shall be so imprisoned, the sum in the Warrant of Commitment mentioned, together with the amount of the costs, charges and expenses (if any) therein also mentioned, and the said Keeper shall receive the same, and shall thereupon discharge such person if he be in his custody for no other matter.

XXV. And be it enacted, That in all cases of Summary proceedings before a Justice or Justices of the Peace out of Sessions, upon any information or complaint as aforesaid, it shall be lawful for one Justice to receive such information or complaint, and to grant a Summons or Warrant thereon, and to issue his Summons or Warrant to compel the attendance of any witnesses, and to do all other acts and matters which may be necessary, preliminary to the hearing, even in cases where by the Statute in that behalf such information and complaint must be heard and determined by two or more Justices, and after the case shall have been so heard and determined, one Justice may issue all Warrants of Distress or Commitment thereon; and it shall not be necessary that the Justice who so acts before or after such hearing, shall be the Justice or one of the Justices by whom the said case shall be heard and determined: Provided always, that in all cases where by Statute it is or shall be required that any such information or complaint shall be heard and determined by two or more Justices, or that a Conviction or Order shall be made by two or more Justices, such Justices must be present and acting together during the whole of the hearing and determination of the case.

XXVI. And whereas doubts may exist whether under the provisions of the Act passed in the Session of Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign, chaptered fifty-four, and intituled, *An Act to extend the rights of Appeals in certain cases in Upper Canada*, Appeals will lie from conviction and decisions under By-laws of Municipal Councils; Be it therefore enacted, That in all cases of complaints against any person for committing any offence against any By-law of any Municipal Corporation in Upper Canada, all decisions, con-

viction
person
to an A
scribed

XXV
Schedu
be deem

XXV
intender
appointe
torial Di
appointe
is author
Peace; a
varied so
to the Po
sitting of

XXIX.
tendent o
aforesaid,
appointed
authority
thereof, a
may be ex
by any Co
respective

XXX.
tendents of
in all cases
of any Sum
by them, sh
of the same
for enforcin
cases.

XXXI.
which this
parts of Act
this Act, sh

XXXII.
ever it occur
for judicial
include any

XXXIII.
Upper Cana

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

victions and orders made by any Justice of the Peace, or by any person by law authorized to act in that capacity, shall be subject to an Appeal in the manner and subject to the provisions prescribed in the above recited Act.

XXVII. And be it enacted, That the several forms in the Schedule to this Act contained, or forms to the like effect, shall be deemed good, valid and sufficient in law.

XXVIII. And be it enacted, That any one Inspector and Superintendent of Police, Police Magistrate, or Stipendiary Magistrate, appointed or to be appointed for any City, Borough, Town, Territorial Division or Place, and sitting at a Police Court or other place appointed in that behalf, shall have full power to do alone whatever is authorized by this Act to be done by two or more Justices of the Peace; and that the several forms hereinafter mentioned may be varied so far as it may be necessary to render them applicable to the Police Courts aforesaid, or to the Court or other place of sitting of such Stipendiary Magistrate.

XXIX. And be it enacted, That any Inspector and Superintendent of Police, Police Magistrate or Stipendiary Magistrate as aforesaid, sitting as aforesaid at any Police Court or other place appointed in that behalf, shall have such and like powers and authority to preserve order in the said Court during the holding thereof, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by any Courts of Law in this Province, or by the Judges thereof respectively, during the sittings thereof.

XXX. And be it enacted, That the said Inspectors and Superintendents of Police, Police Magistrates or Stipendiary Magistrates, in all cases where any resistance shall be offered to the execution of any Summons, Warrant of Execution or other Process issued by them, shall be hereby empowered to enforce the due execution of the same by the means provided by the laws of Upper Canada for enforcing the execution of the Process of other Courts in like cases.

XXXI. And be it enacted, That from and after the day on which this Act shall commence and take effect, all other Acts or parts of Acts contrary to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

XXXII. And be it enacted, that the word "County" wherever it occurs in this Act, shall include any Union of Counties for judicial purposes, and the words "Territorial Division" shall include any Union of two or more territorial divisions.

XXXIII. And be it enacted, That this Act shall apply only to Upper Canada, except in so far as any provision thereof is expressly

pressly extended to Lower Canada, or to any act to be done there.

XXXIV. And be it enacted, That whenever the word "Prison" occurs in this Act, it shall be held to mean any place where parties charged with offences against the law, are usually kept and detained in custody.

XXXV. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of July one thousand eight hundred and fifty-three, and not before.

SCHEDULES.

(A.—See Section I.)

SUMMONS TO THE DEFENDANT UPON AN INFORMATION OR COMPLAINT,

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of
To A. B. of

(laborer):

WHEREAS Information hath this day been laid (or complaint hath this day been made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, City, Town, &c., as the case may be) of , for that you (here state shortly the matter of the information or complaint): These are therefore to command you in Her Majesty's name, to be and appear on at o'clock in the forenoon, at , before me or such Justices of the Peace for the said (County or United Counties, or as the case may be) as may then be there, to answer to the said information (or complaint, and to be further dealt with according to law.

Given under (my) Hand and Seal, this day of in the year of our Lord , at , in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

(B.—See Section II.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables or other Peace Officers in the (County or United Counties, or as the case may be) of :

WHEREAS On last past, information was laid (or complaint was made) before , (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that A. B. (&c. as in the Summons): And whereas (I) the said Justice of the

Peace
ing him

Justice
said in
cording
be and
said Su
oath th
A. B.:
name, f
before [
the Pea
the case
and to b
Given
in the ye
the case n

PROVIN
[County
or as the
To all or
said (C
WHERE
dersigned,
for the sai
, fo
tion); and
matter of
you, in He
B. and to b
Majesty's J
United Cou
formation,
Given un
in the year
as the case n

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

Peace then issued [*my*] Summons unto the said A. B. commanding him in her Majesty's name, to be and appear on _____, at _____ o'clock in the forenoon, at _____, before [*me*] or such

Justices of the Peace as might then be there, to answer unto the said information [*or complaint*], and to be further dealt with according to law; And whereas the said A. B. hath neglected to be and appear at the time and place so appointed in and by the said Summons, although it hath now been proved to me upon oath that the said Summons hath been duly served upon the said A. B.: These are therefore to command you, in her Majesty's name, forthwith to apprehend the said A. B. and to bring him before [*me*] or some one or more of Her Majesty's Justices of the Peace in and for the said [*County or United Counties, or as the case may be*] to answer to the said information [*or complaint*], and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____, in the [*County, or as the case may be*] aforesaid.

J. S. [L. s.]

[C.—See Section II.]

WARRANT IN THE FIRST INSTANCE.

PROVINCE OF CANADA, }
[*County or United Counties,* }
or as the case may be] of

To all or any of the Constables or other Peace Officers in the said (*County or United Counties, or as the case may be*) of _____:

WHEREAS Information hath this day been laid before the undersigned, [*one*] of Her Majesty's Justices of the Peace in and for the said [*County or United Counties, or as the case may be*] of _____, for that A. B. (*here state shortly the matter of information*); and oath being now made before me substantiating the matter of such information: These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before [*me*] or some one or more of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) to answer to the said information, and to be further dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County, or as the case may be*) aforesaid.

J. S. [L. s.]

(D.—See Sections III, VIII, XII & XV.)

WARRANT OF COMMITTAL FOR SAFE CUSTODY DURING AN ADJOURNMENT OF THE HEARING.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all and any of the Constables or Peace Officers in the (County or United Counties, or as the case may be) of , and to the Keeper of the (Common Gaol or Lock-up House) at

WHEREAS On last past, information was laid (or complaint made) before , (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that (i.e., as in the Summons); And whereas the hearing of the same is adjourned to the day of (instant,) at

o'clock in the [fore]noon, at , and it is necessary that the said A. B. should in the meantime be kept in safe custody: These are therefore to command you, or any one of the said Constables or Peace Officers, in Her Majesty's name, forthwith to convey the said A. B. to the [Common Gaol or Lock-up House,] at , and there deliver him into the custody of the Keeper thereof, together with this precept: And I hereby require you, the said Keeper, to receive the said A. B. into your custody in the said [Common Gaol or Lock-up House] and there safely keep him until the day of , [instant,] when you are hereby required to convey and have him, the said A. B., at the time and place to which the said hearing is so adjourned as aforesaid, before such Justices of the Peace for the said [County or United Counties, as the case may be] as may then be there, to answer further to the said information [or complaint,] and to be further dealt with according to law.

Given under my Hand and Seal, this day of in the year of our Lord , at , in the [County, or as the case may be] aforesaid.

J. S. [L. s.]

(E.—See Sections III, VIII, XII & XV.)

RECOGNIZANCE FOR THE APPEARANCE OF THE DEFENDANT WHEN THE CASE IS ADJOURNED, OR NOT AT ONCE PROCEEDED WITH.

PROVINCE OF CANADA,
(County or United Counties, }
as the case may be) of

BE IT REMEMBERED, That on , A. B. of [laborer,] and L. M. of , [grocer,] and O. P. of [yeoman,] personally came and appeared before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the said County

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

[County or United Counties, as the case may be] of , and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say: the said A. B. the sum of and the said L. M. and O. P. the sum of , each, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. shall fail in the condition endorsed [or hereunder written.]

Taken and acknowledged the day and year first above mentioned at before me.

J. S. [L. s.]

The condition of the within [or the above] written Recognizance is such that if the said A. B. shall personally appear on the day of , [instant,] at o'clock in the [forenoon,] at , before me or such Justices of the Peace for the said [County or United Counties, as the case may be] as may then be there, to answer further to the information [or complaint] of C. D. exhibited against the said A. B. and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDANT AND HIS SURETIES.

TAKE NOTICE THAT YOU, A. B., are bound in the sum of and you, L. M. and O. P., in the sum of , each, that you, A. B., appear personally on at o'clock in the [fore]noon at , before me or such Justices of the Peace for the [County or United Counties, as the case may be] of as shall then be there, to answer further to a certain information [or complaint] of C. D. the further hearing of which was adjourned to the said time and place, and unless you appear accordingly, the Recognizance entered into by you, A. B., and by L. M. and O. P. as your Sureties, will forthwith be levied on you and them.

Dated this day of , one thousand eight hundred and

J. S. [L. s.]

(F.—See Sections III, VIII, XII, XV & XIX.)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE DEFENDANT'S RECOGNIZANCE.

I HEREBY CERTIFY, That the said A. B. hath not appeared at the time and place in the said condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S. [L. s.]
(G.—1)

(G 1.—See Section VI.)

SUMMONS TO A WITNESS.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To E. F. of , in the said (County or United Counties, or
as the case may be) of

WHEREAS Information was laid (or complaint was made)
before (one) of Her Majesty's Justices of the Peace in
and for the said (County or United Counties, or as the case may
be) of , for that (&c., as in the Summons,) and it hath been
made to appear to me upon (oath) that you are likely to give
material evidence on behalf of the (Prosecutor or Complainant,
or Defendant) in this behalf: These are therefore to require you
to be and appear on , at o'clock in the (fore)
noon, at before me or such Justices of the Peace for
the said (County or United Counties, or as the case may be) as
may then be there, to testify what you shall know concerning
the matter of the said information (or complaint).

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the
(County, or as the case may be) aforesaid.

J. S. [L. S.]

(G 2.—See Section VI.)

WARRANT WHERE A WITNESS HAS NOT OBEYED A SUMMONS.

PROVINCE OF CANADA,
(County or United Counties, or }
as the case may be) of

To all or any of the Constables and other Peace Officers in the
said (County or United Counties as the case may be) of

WHEREAS Information was laid (or complaint was made) before
(one) of Her Majesty's Justices of the Peace, in
and for the said (County or United Counties, or as the case may
be) of for that (&c., as in the Summons,) and it having
been made to appear to (me) upon oath, that E. F., of
in the said (County or United Counties, or as the case may be)
(laborer) was likely to give material evidence on behalf of the
(prosecutor) (I) did duly issue (my) Summons to the said E. F.,
requiring him to be and appear on , at o'clock,
in the (fore) noon of the same day, at , before me or
such Justice or Justices of the Peace for the said (County or
United Counties, or as the case may be) as might then be there,
to testify what he should know concerning the said A. B., or the
matter of the said information (or complaint): And whereas
proof hath this day been made before me, upon oath, of such

Summons
whereas
place ap
been offe
you to ta
, at
or such J
United C
testify wh
complaint
Given u
in the year
or as the

PROVINCE
County or
[or as the
To all or
said (Co
WHEREAS
before the
Peace in a
case may b
and it being

of the (pros
E. F., will n
so to do; T
the said E.
(fore) noon,
Justices of t
as the case n
shall know
complaint.)

Given und
in the year o
as the case n

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (O. W.)

Summons having been duly served upon the said E. F.; and whereas the said E. F. hath neglected to appear at the time and place appointed by the said Summons, and no just excuse hath been offered for such neglect; These are therefore to command you to take the said E. F., and bring him and have him on , at o'clock in the noon, at , before me or such Justice or Justices of the Peace for the said (County or United Counties, or as the case may be,) as may then be there to testify what he shall know concerning the said information (or complaint.)

Given under my Hand and Seal, this day of , in the year of our Lord , at in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

(G 3.—See Section VI.)

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

PROVINCE OF CANADA,
County or United Counties, }
[or as the case may be] of }

To all or any of the Constables, or other Peace Officers in the said (County or United Counties, or as the case may be) of :

WHEREAS Information was laid (or complaint was made) before the undersigned (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that (&c, as in the Summons,) and it being made to appear before me upon oath, that E. F., of (laborer,) is likely to give material evidence on behalf of the (prosecutor) in this matter, and it is probable that the said E. F., will not attend to give evidence without being compelled so to do; These are therefore to command you to bring and have the said E. F. before me, on , at o'clock in the (fore) noon, at , or before me or such other Justice or Justices of the Peace for the said (County or United Counties, or as the case may be) as may then be there, to testify what he shall know concerning the matter of the said information (or complaint.)

Given under my Hand and Seal, this day of , in the year of our Lord, , at in the [County or as the case may be] aforesaid.

J. S. [L. S.]

(G 4.—See Section VI)

COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN OR GIVE EVIDENCE.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers in the said (County or United Counties, or as the case may be) of and to the Keeper of the Common Gaol of the said (County or United Counties, as the case may be) at

WHEREAS Information was laid (or complaint was made) before (me) (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that (i.e., as in the Summons), and one E. F., now appearing before me such Justice as aforesaid, on , at , and being required by me to make

oath or affirmation as a witness in that behalf, hath now refused so to do, (or being now here duly sworn as a witness in the matter of the said information (or complaint) doth refuse to answer a certain question concerning the premises which is now here put to him, and more particularly the following question (here insert the exact words of the question), without offering any just excuse for such his refusal); These are therefore to command you, or any one of the said Constables or Peace Officers to take the said E. F., and him safely to convey to the Common Gaol at aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol and there imprison him for such his contempt for the space of days, unless he shall in the meantime consent to be examined and to answer concerning the premises, and for so doing this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of in the year of our Lord, , at , in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

(H.—See Section XII)

WARRANT TO REMAND A DEFENDANT WHEN APPREHENDED.

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers in the said (County or United Counties, or as the case may be) of and

, and to the Keeper of the (*Common Gaol or Lock-up House*) at

WHEREAS Complaint was made (or information was laid) before (one) of Her Majesty's Justices of the Peace in and for the (*County or United Counties, or as the case may be*) of , for that (*&c., as in the Summons or Warrant*); And whereas the said A. B. hath been apprehended under and by virtue of a Warrant, upon such information (or complaint) and is now brought before me as such Justice as aforesaid; These are therefore to command you, or any one of the said Constables, or Peace Officers, in Her Majesty's name forthwith to convey the said A. B. to the (*Common Gaol or Lock-up House*) at and there to deliver him to the said Keeper thereof, together with this Precept; And I do hereby command you the said Keeper to receive the said A. B. into your custody in the said (*Common Gaol or Lock-up House*), and there safely keep him until next, the day of (*instant*), when you are hereby commanded to convey and have him at , at o'clock in the noon of the same day, before me, or such Justice or Justices of the Peace of the said (*County or United Counties, or as the case may be*) as may then be there, to answer to the said information [*or complaint*], and to be further dealt with according to law.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the [*County, or as the case may be*], aforesaid.

J. S. [L. s.]

[I 1.—See Sections XIII & XVI.]

CONVICTION FOR A PENALTY TO BE LEVIED BY DISTRESS, AND IN DEFAULT OF SUFFICIENT DISTRESS, BY IMPRISONMENT.

PROVINCE OF CANADA,
[*County or United Counties,* }
or as the case may be] of

BE IT REMEMBERED, That on the day of , in the year of our Lord , at , in the said [*County, or United Counties, or as the case may be*], A. B. is convicted before the undersigned, [one] of Her Majesty's Justices of the Peace for the said (*County or United Counties, or as the case may be*) for that he the said A. B., (*&c., stating the offence, and the time and place when and where committed*), and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (*stating the penalty, and also the compensation, if any*) to be paid and applied according to law, and also to pay to the said C. D. the sum of , for his costs in this behalf; and if the said several sums be not paid forthwith on or before

before the of next,) *I order that the same be levied by distress and sale of the goods and chattels of the said A. B., and in default of sufficient distress, * I adjudge the said A. B. to be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be,) at in the said County of (there to be kept to hard labor) for the space of , unless the said several sums and all costs and charges of the said distress [and of the commitment and conveying of the said A. B. to the said Gaol] shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at in the [County or United Counties, or as the case may be] aforesaid.

J. S. [L. s.]

(1 2.—See Sections XIII & XVI.)

CONVICTION FOR A PENALTY, AND IN DEFAULT OF PAYMENT, IMPRISONMENT,

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of }

BE IT REMEMBERED, That on the day of , in the year of our Lord , at , in the said (County or United Counties, or as the case may be), A. B. is convicted before the undersigned, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties, or as the case may be), for that he the said A. B. (&c., stating the offence, and the time and place when and where it was committed,) and I adjudge the said A. B. for his said offence to forfeit and pay the sum of (stating the penalty and the compensation if any), to be paid and applied according to law; and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith [or, on or before next,] I adjudge the said A. B. to be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be,) at in the said County of [and there to be kept at hard labor] for the space of ,

* Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks ** say, "then inasmuch as it hath now been made to appear to me (that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. or his family," or, "that the said A. B. hath no goods or chattels whereon to levy the said sums by distress)," I adjudge, &c., (as above, to the end).

unless
the se

Give
above
may

CON
Pr
[Coun
or as

Be

the ye

Coun

unders

and for

be] for

time

adjudg

in the

or as

Count

labor]

the sai

for his

not pa

then *

sale of

of suff

to be i

at har

at

aforesas

Give

mentio

the cas

* Or
the Def
to levy
say, "i
issuing
the said
or chat
adjudge

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

unless the said sums and the costs and charges of conveying the said A. B. to the said Common Gaol, shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned, at _____ in the [County, or as the case may be] aforesaid.

J. S. (L. S.)

(I 3.—See Sections XIII & XVI.)

CONVICTION WHEN THE PUNISHMENT IS BY IMPRISONMENT, &c.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be] of

BE IT REMEMBERED, That on the _____ day of _____, in the year of our Lord _____, in the said [County or United Counties, or as the case may be] A. B. is convicted before the undersigned [one] of Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be] for that he the said A. B. [&c., stating the offence and the time and place when and where it was committed]; and I adjudge the said A. B. for his said offence to be imprisoned in the Common Gaol of the said [County or United Counties, or as the case may be,] at _____ in the County of _____ [and there to be kept at hard labor] for the space of _____; and I also adjudge the said A. B. to pay to the said C. D. the sum of _____ for his costs in this behalf, and if the said sum for costs be not paid forthwith, [or on or before _____ next, then * I order that the said sum be levied by distress and sale of the goods and chattels of the said A. B.; and in default of sufficient distress in that behalf, * I adjudge the said A. B. to be imprisoned in the said Common Gaol, [and there to be kept at hard labor] for the space of _____, to commence at _____ and from the term of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, the day and year first above mentioned at _____ in the [County or United Counties, or as the case may be] aforesaid.

J. S. [L. S.]

* Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks **, say, "inasmuch as it hath now been made to appear to me (that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. and his family," or, "that the said A. B. hath no goods or chattels whereon to levy the said sum for costs by distress)" I adjudge, &c.

(K 1.—See Sections XIII & XVI.)

ORDER FOR PAYMENT OF MONEY TO BE LEVIED BY DISTRESS, AND
IN DEFAULT OF DISTRESS, IMPRISONMENT.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be] of

BE IT REMEMBERED, That on complaint was made before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be] of for that [stating the facts entitling the Complainant to the order, with the time and place when and where they occurred,] and now at this day, to wit, on at , the parties aforesaid appear before me, the said Justice, [or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me on oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here on this day before me or such Justice or Justices of the Peace for this said [County or United Counties, or as the case may be] as should now be here, to answer the said complaint, and to be further dealt with according to law]; and now having heard the matter of the said complaint, I do adjudge the said A. B. [to pay to the said C. D. the sum of forthwith, or on or before next, [or as the Statute may require,] and also to pay to the said C. D. the sum of for his costs in this behalf; and if the said several sums be not paid forthwith, [or on or before next, then * I hereby order that the same be levied by distress, and sale of the goods and chattels of the said A. B. [and in default of sufficient distress in that behalf * I adjudge the said A. B. to be imprisoned in the Common Gaol of the said [County or United Counties, or as the case may be] at in the said County of [and there kept at hard labor] for the space of unless the said several sums and all costs and charges of the said distress [and of the commitment and conveying of the said A. B. to the said Common Gaol,] shall be sooner paid.

* Or, when the issuing of a Distress Warrant would be ruinous to the Defendant or his family, or it appears that he has no goods whereon to levy a distress, then, instead of the words between the asterisks *, say, "inasmuch as it hath now been made to appear to me [that the issuing of a Warrant of Distress in this behalf would be ruinous to the said A. B. and his family,] or "that the said A. B. hath no goods or chattels whereon to levy the said sums by distress," I adjudge, &c.

IS, AND

as made
s of the
r as the
ling the
d where

the said
Justice,
by him-
proved
with the
appear
s of the
the case
aint, and
having
the said
rthwith,
require,]

ruinous
no goods
seen the
appear
s behalf
that the
he said

(ORDER FOR PAYMENT OF MONEY, AND IN DEFAULT OF PAYMENT,
IMPRISONMENT.

BE IT REMEMBERED, That on _____ complaint was made before
the undersigned, [one] of Her Majesty's Justices of the Peace in
and for the said [County or United Counties or as the case may
be] of _____, for that [&c. stating the facts entitling the
Complainant to the order, with the time and place when and where
they occurred,] and now at this day, to wit, on _____ at _____

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the [County, or
as the case may be] aforesaid.

Given

[K 3.—See Sections XIII & XVI.]

ORDER FOR ANY OTHER MATTER WHERE THE DISOBEYING OF IT IS PUNISHABLE WITH IMPRISONMENT.

PROVINCE OF CANADA,
 [County or United Counties, }
 or as the case may be, of }

BE IT REMEMBERED, That on complaint was made before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be,] of , for that [stating the facts entitling the Complainant to the order, with the time and place where and when they occurred,] and now at this day, to wit, on at , the parties aforesaid appear before me the said Justice, (or the said C. D. appears before me the said Justice, but the said A. B. although duly called doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to me upon oath that the said A. B. has been duly served with the Summons in this behalf, which required him to be and appear here this day before me or such Justice or Justices of the Peace for the said [County or United Counties, or as the case may be,] as should now be here, to answer to the said complaint, and to be further dealt with according to law,) and now having heard the matter of the said complaint, I do therefore adjudge the said A. B. to (here state the matter required to be done,) and if upon a copy of the Minute of this Order being served upon the said A. B. either personally or by leaving the same for him at his last or most usual place of abode, he shall neglect or refuse to obey the same, in that case I adjudge the said A. B. for such his disobedience to be imprisoned in the Common Gaol of the said [County or United Counties, or as the case may be,] at in the said County of (there to be kept at hard labor) for the space of (unless the said order be sooner obeyed, (if the Statute authorize this); and I do also adjudge the said A. B. to pay to the said C. D. the sum of for his costs in this behalf, and if the said sum for costs be not paid forthwith, (or on or before next,) I order the same to be levied by distress and sale of the goods and chattels of the said A. B. any in default of sufficient distress in that behalf, I adjudge the said A. B. to be imprisoned in the said Common Gaol, (there to be kept at hard labor) for the space of to commence at and from the termination of his imprisonment aforesaid, unless the said sum for costs shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

PRO
 (Coun
 or as t
 BE

(or con
 Majest
 United
 (&c., a
 to wit,
 before
 formati
 but the
 upon th
 me duly
 formati
 miss the
 said A.
 his defe
 paid for
 same be
 the said
 I adjudge
 of the sa

kept at h
 sum for
 (and of
 Goal,) sh
 Given

in the [C

I HEREBY
 by C. D. a
 day consi
 in and for
 of

Dated t
 hundred a

* If the
 be omitted.

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

[L.—See Section XIII.]

ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of }

BE IT REMEMBERED, That on information was laid (or complaint was made) before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , for that (&c., as in the Summons to the Defendant,) and now at this day, to wit, on , at , both the said parties appear before me in order that I should hear and determine the said information (or complaint,) or the said A. B. appeareth before me, but the said C. D. although duly called doth not appear,] whereupon the matter of the said information [or complaint] being by me duly considered [it manifestly appears to me that the said information (or complaint) is not proved,* and,] I do therefore dismiss the same, [and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf: and if the said sum for costs be not paid forthwith, (or on or before ,] I order that the same be levied by distress and sale of the goods and chattels of the said C. D., and in default or sufficient distress in that behalf I adjudge the said C. D. to be imprisoned in the Common Gaol of the said [County or United Counties or as the case may be,] at in the said County of [and there to be kept at hard labor] for the space of , unless the said sum for costs and all costs and charges of the said distress (and of the commitment of the said C. D. to the said Common Gaol,) shall be sooner paid.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the [County, or as the case may be] aforesaid.

J. S. [L. s.]

[M.—See Section XIII.]

CERTIFICATE OF DISMISSAL.

I HEREBY CERTIFY, That an information [or complaint] preferred by C. D. against A. B. for that [or as in the summons,] was this day considered by me, one of her Majesty's Justices of the Peace in and for the [County or United Counties or as the case may be] of , and was by me dismissed [with costs.]

Dated this day of , one thousand eight hundred and

J. S. [L. s.]

* If the Informant or Complainant do not appear, these words may be omitted.

[N 1.—See Section XVIII.]

WARRANT OF DISTRESS UPON A CONVICTION FOR A PENALTY.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers in the
said [County or United Counties, or as the case may be] of :

WHEREAS A. B., late of , [laborer,] was on this day
[or on last past] duly convicted before , [one]
of Her Majesty's Justices of the Peace, in and for the said
[County or United Counties, or as the case may be] of , for
that [stating the offence as in conviction,] and it was thereby
adjudged that the said A. B., should for such his offence forfeit
and pay [£c., as in conviction.] and should also pay to the said
C. D., the sum of for his costs in that behalf; and it
was thereby ordered that if the said several sums should not be
paid [forthwith] the same should be levied by distress and sale
of the goods and chattels of the said A. B.; and it was thereby also
adjudged that the said A. B., in default of sufficient distress,
should be imprisoned in the Common Gaol of the said [County
or United Counties, or as the case may be,] at in the said
County of , [and there to be kept at hard labor] for the
space of , unless the said several sums and all costs
and charges of the said distress, and of the commitment and con-
veying of the said A. B., to the said Common Gaol, should be
sooner paid; And whereas the said A. B., being so convicted as
aforesaid and being [now] required to pay the said sums of
and hath not paid the same or any part thereof, but therein
hath made default; These are therefore to command you, in
Her Majesty's name, forthwith to make distress of the goods and
chattels of the said A. B.; and if within days next after
the making of such distress, the said sums, together with the
reasonable charges of taking and keeping the distress, shall not
be paid, then you do sell the said goods and chattels so by you
distrained, and do pay the money arising from such sale unto me
[the convicting Justice or one of the convicting Justices] that I
may pay and apply the same as by law is directed, and may
render the overplus, if any, on demand, to the said A. B.; and if
no such distress can be found, then, that you certify the same unto
me, to the end that such further proceedings may be had thereon
as to law doth appertain.

Given under my Hand and Seal, this
the year of our Lord , at
or as the case may be] aforesaid.

day of , in
in the [County,

J. S. [L. S.]

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

[N 2.—See Section XVIII.]

WARRANT OF DISTRESS UPON AN ORDER FOR THE PAYMENT OF MONEY.

PROVINCE OF CANADA,
[County or United Counties, or }
as the case may be] of

To all or any of the Constables, or other Peace Officers, in the said [County or United Counties, or as the case may be] of :

WHEREAS On last past, a complaint was made before [one] of Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be,] for that [§c., as in the order,] and afterwards, to wit, on , at the said parties appeared before [as in the order,] and thereupon having considered the matter of the said complaint, the said A. B. was adjudged [to pay to the said C. D. the sum of on or before then next,] and also to pay to the said C. D., the sum of for his costs in that behalf; and it was ordered that if the said several sums should not be paid on or before the said then next, the same should be levied by distress and sale of the goods and chattels of the said A. B.; and it was adjudged that in default of sufficient distress in that behalf, the said A. B., should be imprisoned in the Common Gaol of the said [County or United Counties, or as the case may be,] at in the said County of [and there kept at hard labor.] for the space of , unless the said several sums and all costs and charges of the distress [and of the commitment and conveying of the said A. B. to the said Common Gaol] should be the sooner paid; And* whereas the time in and by the said order appointed for the payment of the said several sums of and hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said A. B.; and if within the space of days after the making of such distress, the said last mentioned sums, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale unto [me, or some other of the convicting Justices, as the case may be,] that I [or he] may pay and apply the same as by law directed, and may render the overplus, if any, on demand, to the said A. B.; and if no such distress can be found, then that you certify the same unto me, to the end that such proceedings may be had therein, as to law doth appertain.

Given under my Hand and Seal, this day of in the [County, or as the case may be,] aforesaid. , at

J. S. [L. s.]
[N 3.]

(N 3.—See Section XVIII.)

ENDORSEMENT IN BACKING A WARRANT OF DISTRESS.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be,) of }

WHEREAS Proof upon oath hath this day been made before me, one of her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be,) that the name of J. S. to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned, I do therefore authorize U. T. who bringeth me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom the same may be lawfully executed, and also all Constables and other Peace Officers in the said (County or United Counties, or as the case may be,) of to execute the same within the said (County or United Counties, or as the case may be) and of

Given under my Hand, this day of , one thousand eight hundred and . O. K.

(N 4.—See Section XX.)

CONSTABLE'S RETURN TO A WARRANT OF DISTRESS.

I, W. T., Constable of , in the (County or United Counties or as the case may be) of , hereby certify to J. S., Esquire, one of Her Majesty's Justices of the Peace for the (County or United Counties, or as the case may be) that by virtue of this Warrant, I have made diligent search for the goods and chattels of the within mentioned A. B., and that I can find no sufficient goods or chattels of the said A. B. whereon to levy the sums within mentioned.

WITNESS my Hand, this day of one thousand eight hundred and . W. T.

(N 5.—See Section. XX.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS.

To all or any of the Constables and other Peace Officers, in the (County or United Counties or as the case may be,) of , and to the keeper of the Common Gaol of the said (County or United Counties, or as the case may be,) of at , in the said County of :

WHEREAS (&c., as in either of the foregoing Distress Warrants N 1, 2, to the asterisk*, and then thus): And whereas afterwards, on the day of , in the year aforesaid, I, the said Justice issued a Warrant to all or any of the Constables or other Peace Officers of the (County or United Counties or as the

case may
them, to
and sale
as it app
of Distre
as otherw
for the go
distress v
found; T
bles or P
and him s
said, and
this Prece
of the said
custody, i
keep him
said sever
tress, (and
the Comm
shall be so
this shall
Given u
in the year
or as the co

WARRANT OF

PROVINCE
(County or
or as the co
To all or an
said (Co

(County or

WHEREAS
victed befor
the Peace, i
the case may
and it was t
should forfe
viction), and
his costs in
if the said s
A. B. shoul

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (O. W.)

case may be) of commanding them, or any of them, to levy the said sums of and by distress and sale of the goods and chattels of the said A. B.; And where- as it appears to me, as well by the return to the said Warrant of Distress, by the Constable who had the execution of the same as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the sums above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B., and him safely to convey to the Common Gaol at afore- said, and there deliver him to the said Keeper, together with this Precept; and I do hereby Command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody, in the said Common Gaol, there to imprison him (and keep him at hard labor) for the space of , unless the said several sums, and all the costs and charges of the said distress, (and of the commitment and conveying of the said A. B. to the Common Gaol) amounting to the further sum of , shall be sooner paid unto you the said Keeper; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of , in the year of our Lord , at in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

(O 1.)

WARRANT OF COMMITMENT UPON A CONVICTION FOR A PENALTY IN THE FIRST INSTANCE.

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be,) of

To all or any of the Constables and other Peace Officers in the said (County or United Counties, or as the case may be,) of , and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may be) of at , in the said County of :

WHEREAS A. B., late of (laborer,) was on this day convicted before the undersigned, (one) of Her Majesty's Justices of the Peace, in and for the said (County or United Counties or as the case may be) for that (stating the offence as in the conviction,) and it was thereby adjudged that the said A. B., for his offence should forfeit and pay the sum of (£s., as in the conviction), and should pay to the said C. D. the sum of for his costs in that behalf; and it was thereby further adjudged that if the said several sums should not be paid [forthwith] the said A. B. should be imprisoned in the Common Gaol of the said [County

[*County or United Counties, or as the case may be*] at
 in the said County of [and there kept at hard labor]
 for the space of , unless the said several sums [and
 the costs and charges of conveying the said A. B. to the said Com-
 mon Gaol] should be sooner paid; And whereas the time in and
 by the said conviction appointed for the payment of the said seve-
 ral sums hath elapsed, but the said A. B. hath not paid the same
 or any part thereof, but therein hath made default; These are
 therefore to command you, the said Constables or Peace Officers,
 or any one of you, to take the said A. B., and him safely to con-
 vey to the Common Gaol at aforesaid, and there to
 deliver him to the Keeper thereof, together with this Precept;
 And I do hereby command you the said Keeper of the said Com-
 mon Gaol to receive the said A. B. into your custody in the said
 Common Gaol, there to imprison him [and keep him at hard labor]
 for the space of , unless the said several sums [and
 costs and charges of carrying him to the said Common Gaol,
 amounting to the further sum of , shall be sooner
 paid; and for your so doing this shall be your sufficient War-
 rant.

Given under my Hand and Seal, this day of ,
 in the year of our Lord , at , in the [County,
 or as the case may be] aforesaid.

J. S. [L. S.]

(O 2.)

WARRANT OF COMMITMENT ON AN ORDER IN THE FIRST INSTANCE

PROVINCE OF CANADA,
 [County or United Counties, }
 as the case may be,] of

To all or any of the Constables and other Peace Officers in the said
 (County or United Counties, or as the case may be) of ,
 and to the Keeper of the Common Gaol of the (County or
 United Counties, or as the case may be) of . at
 in the said County of :

WHEREAS O last past, complaint was made before
 the undersigned, (one) of Her Majesty's Justices of the Peace in
 and for the said [County or United Counties, or as the case may
 be] of for that [&c., as in the order] and afterwards, to
 wit, on the day of , at , the parties
 appeared before me the said Justice [or as it may be in the order]
 and thereupon having considered the matter of the said com-
 plaint, I adjudged the said A. B. to pay to the said C. D. the sum
 of , on or before the day of
 then next, and also to pay to the said C. D. the sum of
 for his costs in that behalf; and I also thereby adjudged that if

the said
 day of
 in the C
 case may
 (and the
 unless th
 ing the s
 should be
 order app
 money ha
 or any p
 therefore
 cers, or a
 vey to th
 to deliver
 And I do
 mon Gaol
 Common
 for the sp
 the costs a
 amounting
 unto you
 your suffic
 Given u
 in the yea
 [County, a

WARRANT OF

PROVINCE OF CANADA,
 [County or United Counties, }
 as the case may be,] of
 To all or any of the Constables and other Peace Officers in the said
 (County or United Counties, or as the case may be) of ,
 and to the Keeper of the Common Gaol of the (County or
 United Counties, or as the case may be) of . at
 in the said County of :
 WHEREAS O last past, complaint was made before
 the undersigned, (one) of Her Majesty's Justices of the Peace in
 and for the said [County or United Counties, or as the case may
 be] of for that [&c., as in the order] and afterwards, to
 wit, on the day of , at , the parties
 appeared before me the said Justice [or as it may be in the order]
 and thereupon having considered the matter of the said com-
 plaint, I adjudged the said A. B. to pay to the said C. D. the sum
 of , on or before the day of
 then next, and also to pay to the said C. D. the sum of
 for his costs in that behalf; and I also thereby adjudged that if

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

the said several sums should not be paid on or before the day of _____ then next, the said A. B. should be imprisoned in the Common Gaol of the (County or United Counties, or as the case may be) of _____ at _____ in the said County of _____ (and there to be kept at hard labor) for the space of _____, unless the said several sums [and the costs and charges of conveying the said A. B. to the said Common Gaol, as the case may be] should be sooner paid; And whereas the time in and by the said order appointed for the payment of the said several sums of money hath elapsed, but the said A. B. hath not paid the same or any part thereof, but therein hath made default; These are therefore to command you the said Constables and Peace Officers, or any of you, to take the said A. B. and him safely to convey to the said Common Gaol, at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol, to receive the said A. B. into your custody in the said Common Gaol, there to imprison him [and keep him at hard labor] for the space of _____, unless the said several sums [and the costs and charges of conveying him to the said Common Gaol amounting to the further sum of _____], shall be sooner paid unto you the said Keeper; and for your so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____ at _____, in the [County, or as the case may be] aforesaid.

J. S. [L. s.]

(Q 1.—See Section XXII.)

WARRANT OF DISTRESS FOR COSTS UPON AN ORDER FOR DISMISSAL OF AN INFORMATION OR COMPLAINT.

PROVINCE OF CANADA, }
[County or United Counties, }
or as the case may be] of }

To all or any of the Constables, or other Peace Officers in the said [County or United Counties, or as the case may be] of _____:

WHEREAS On _____ last past, information was laid (or complaint was made) before _____ (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____ for that (\$c., as in the order of dismissal,) and afterwards, to wit, on _____ at _____, both parties appearing before _____ in order that (I) should hear and determine the same, and the several proofs adduced to (me) in that behalf being by (me) duly heard and considered, and it manifestly appearing to (me) that the said information (or complaint) was not proved, (I) therefore dismissed

missed the same, and adjudged that the said C. D. should pay to the said A. B. the sum of _____ for his costs incurred by him in his defence in that behalf; and (I) ordered that if the said sum for costs should not be paid [*forthwith*] the same should be levied on the goods and chattels of the said C. D., and (I) adjudged that in default of sufficient distress in that behalf the said C. D. should be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be,) of _____ at _____ in the said County of _____ (and there kept at hard labor) for the space of _____, unless the said sum for costs, and all costs and charges of the said distress, and of the commitment and conveying of the said A. B. to the said Common Gaol should be sooner paid;* And whereas the said C. D. being now required to pay to the said A. B. the said sum for costs, hath not paid the same, or any part thereof, but therein hath made default; These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and chattels of the said C. D., and if within the space of _____ days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, then that you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to me (the Justice who made such order or dismissal, as the case may be) that (I) may pay and apply the same as by law directed, and may render the overplus (if any,) on demand to the said C. D. and if no such distress can be found, then that you certify the same unto me, (or to any other Justice of the Peace for the same) (County or United Counties, or as the case may be) to the end that such proceedings may be had therein as to law doth appertain.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

(Q 2.—See Section XXII.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables, or Peace Officers, in the said (County or United Counties, or as the case may be) of _____, and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may be) of _____ at _____ in the said County of _____ :

WH
thus :
in the
or any
(Count
them, c
costs, b
C. D.;
the said
charged
said Co
tels of
levy the
fore to
any one
the Com
the case
the Kee
commar
ceive th
Gaol, th
space o
charges
ing of t
further
the said
cient W
Given
in the y
(County

CERTIFICA

Or

I HER
sions of
[County
last past
J. S. Esq
for the sa
on to be
Court of

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

WHEREAS (*&c.*, as in the last form to the asterisk,* and then thus: And whereas afterwards, on the day of in the year aforesaid, I, the said Justice, issued a Warrant to all or any of the Constables or other Peace Officers of the said *(County or United Counties, or as the case may be)* commanding them, or any one of them to levy the said sum of for costs, by distress and sale of the goods and chattels of the said C. D.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (or Peace Officer) charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said C. D., but that no sufficient distress whereon to levy the sum above mentioned could be found; These are therefore to command you, the said Constables and Peace Officers, or any one of you, to take the said C. D. and him safely convey to the Common Gaol of the said *(County or United Counties, or as the case may be.)* at aforesaid, and there deliver him to the Keeper thereof, together with this precept; and I hereby command you, the said Keeper of the said Common Gaol to receive the said C. D. into your custody in the said Common Gaol, there to imprison him *(and keep him at hard labor)* for the space of unless the said sum, and all the costs and charges of the said distress *(and of the commitment and conveying of the said C. D. to the said Common Gaol amounting to the further sum of)* shall be sooner paid up unto you the said Keeper; and for your so doing this shall be your sufficient Warrant.

Given under my Hand and Seal, this day of in the year of our Lord , at , in the *(County, or as the case may be)* aforesaid.

J. S. [L. S.]

(R.—See Section XXIII.)

CERTIFICATE OF CLERK OF THE PEACE THAT THE COSTS OF AN APPEAL ARE NOT PAID.

Office of the Clerk of the Peace for the *County or United Counties, or as the case may be* of

TITLE OF THE APPEAL.

I HEREBY CERTIFY, That at a Court of General Quarter Sessions of the Peace, holden at , in and for the said *[County or United Counties, or as the case may be]* on last past, an appeal by A. B. against a conviction *[or order]* of J. S. Esquire, one of Her Majesty's Justices of the Peace in and for the said *[County or United Counties, or as the case may be]* came on to be tried, and was there heard and determined, and the said Court of General Quarter Sessions thereupon ordered that the

said conviction [or order] should be confirmed [or quashed,] and that the said (*Appellant*) should pay to the said (*Respondent*) the sum of _____ for his costs incurred by him in the said appeal, and which sum was thereby ordered to be paid to the Clerk of the Peace of the said (*County or United Counties, or as the case may be*) on or before the _____ day of _____ instant, to be by him handed over to the said (*Respondent*), and I further certify that the said sum for costs has not, nor has any part thereof, been paid in obedience to the said order.

Dated the _____ day of _____, one thousand eight hundred and _____.

G. H.
Clerk of the Peace.

(S 1.—See Section XXIII.)

WARRANT OF DISTRESS FOR COSTS OF APPEAL AGAINST A CONVICTION OR ORDER.

PROVINCE OF CANADA, }
(*County or United Counties,* }
or as the case may be.) of

To all or any of the Constables, or other Peace Officers, in the said (*County or United Counties, or as the case may be*) of

WHEREAS &c., as in the Warrants of Distress, N 1, 2, ante, and to the end of the Statement of the Conviction or Order, and then thus): And whereas the said A. B. appealed to the Court of General Quarter Sessions of the Peace, for the said (*County or United Counties, or as the case may be*) against the said Conviction or Order, in which appeal the said A. B. was the Appellant, and the said C. D. (or J. S., Esquire, the Justice of the Peace who made the said Conviction or Order) was the Respondent, and which said Appeal came on to be tried and was heard and determined at the last General Quarter Sessions of the Peace for the said [*County or United Counties, or as the case may be*] holden at _____, on _____, and the said Court of General Quarter Sessions thereupon ordered that the said Conviction [or Order] should be confirmed, [or quashed,] and that the said [*Appellant*] should pay to the said [*Respondent*] the sum of _____ for his costs incurred by him in the said appeal, which said sum was to be paid to the Clerk of the Peace of the said [*County or United Counties, or as the case may be*] on or before the _____ day of _____ one thousand eight hundred _____, to be by him handed over to the said C. D.; And whereas the Clerk of the Peace of the said (*County or United Counties, or as the case may be*) hath on the _____ day of _____ instant, duly certified that the said sum for costs had not been paid;* These are therefore to command you, in Her Majesty's name, forthwith to make distress of the goods and

and chattels of the said A. B., and if within the space of days next after the making of such distress, the said last mentioned sum, together with the reasonable charges of taking and keeping the said distress, shall not be paid, that then you do sell the said goods and chattels so by you distrained, and do pay the money arising from such sale to the Clerk of the Peace for the said [County or United Counties, or as the case may be] of , that he may pay and apply the same as by law directed; and if no such distress can be found, then that you certify the same unto me or any other Justice of the Peace for the same (County or United Counties, or as the case may be) to the end that such proceedings, may be had therein as to law doth appertain.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the [County, or as the case may be] aforesaid.

O. K. [L. s.]

(S 2.—See Section XXIII.)

WARRANT OF COMMITMENT FOR WANT OF DISTRESS IN THE LAST CASE.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be] of

To all or any of the Constables, or other Peace Officers, in the said County or United Counties, or as the case may be] of and to the Keeper of the Common Gaol of the said [County or United Counties, or as the case may be] of at in the said County of :

WHEREAS [&c., as in the last form, to the asterisk,* and then thus] : And whereas, afterwards, on the day of , in the year aforesaid, I, the undersigned, issued a Warrant to all or any of the Constables and other Peace Officers in the said (County or United Counties, or as the case may be) of , commanding them, or any of them, to levy the said sum of , for costs by distress and sale of the goods and chattels of the said A. B.; And whereas it appears to me, as well by the return to the said Warrant of Distress of the Constable (or Peace Officer,) who was charged with the execution of the same, as otherwise, that the said Constable hath made diligent search for the goods and chattels of the said A. B., but that no sufficient distress whereon to levy the said sum above mentioned could be found; These are therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said A. B.; and him safely to convey the Common Gaol of the said (County or United Counties of , as the case may be,) at aforesaid, and there deliver him to the said Keeper thereof, together

together with this Precept; And I do hereby command you, the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, there to imprison him [and keep him at hard labor] for the space of unless the said sum and all costs and charges of the said Distress (and of the commitment and conveying of the said A. B. to the said Common Gaol amounting to the further sum of) shall be sooner paid unto you, the said Keeper; and for so doing, this shall be your sufficient Warrant.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, in the (County, or as the case may be) at _____, aforesaid.

O. K. [L. S.]

(T.)

GENERAL FORM OF INFORMATION ON OATH.

PROVINCE OF CANADA,
(County or United Counties, or }
as the case may be) of

The information [or complaint,] of C. D., of the Township of _____ in the said [County or United Counties, or as the case may be] of _____ [laborer] [If preferred by an Attorney or Agent, say:] "by D. E., his duly authorized Agent [or Attorney] in this behalf, taken upon oath, before me, the undersigned, one of Her Majesty's Justices of the Peace, in and for the said [County or United Counties, or as the case may be] of _____,

, at N., in the said [County, or as the case may be] of _____, this _____ day of _____, in the year of our Lord, one thousand eight hundred and _____, who saith* that [he hath just cause to suspect and believe, and doth suspect and believe that] A. B., of the [Township] of _____, in the said [County, or as the case may be] of _____, within the space of _____, [the time within which the information or complaint must be laid,] last past to wit, on _____ the day _____ instant, at the Township of _____, in the [County or as the case may be,] aforesaid, did [here set out the offence, &c.] contrary to the form of the Statute in such case made and provided.

C. D. [or D. E.]

Taken and sworn before me, the day and year and at the place above mentioned.

J. S.

FORM OF ORDER OF DISMISSAL OF AN INFORMATION OR COMPLAINT.

PROVINCE OF CANADA,
(County or United Counties, or }
as the case may be) of

BE IT REMEMBERED, That on _____, information was laid [or complaint was made] before the undersigned, [one] of Her Majesty's

jesty
Coun
(&c.,
to wi
before
inform
me, b
where
being
the sa
theref
do pay
by him
costs
that th
chatter
that b
Comm
case m
of

charge
ing of
paid.

Give
in the
as the

I HE
red by
this da
Peace i
may be
Date
hundred

GENE
To C. I
of th
given
TAKE
to enter

* If as
bath been
† If the

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (G. W.)

Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be] of , for that (&c., as in the Summons to the Defendant,) and now at this day to wit, on , at ,* both the said parties appear before me in order that I should hear and determine the said information (or complaint,) (or the said A. B., appeareth before me, but the said C. D., although duly called, doth not appear); whereupon the matter of the said information (or complaint) being by me duly considered, (it manifestly appears to me that the said information (or complaint) is not proved, and (†) I do therefore dismiss the same, (and do adjudge that the said C. D. do pay to the said A. B. the sum of for his costs incurred by him in his defence in this behalf; and if the said sum for costs be not paid forthwith, (or on or before), I order that the same be levied by distress and sale of the goods and chattels of the said C. D. and in default of sufficient distress in that behalf, I adjudge the said C. D. to be imprisoned in the Common Gaol of the said (County or United Counties, or as the case may be) of at in the said County of (and there kept at hard labor) for the space of , unless the said sum for costs, and all costs and charges of the said distress (and of the commitment and conveying of the said C. D. to the said Common Gaol) shall be sooner paid.

Given under my Hand and Seal, this day of in the year of our Lord , at in the (County, or as the case may be) aforesaid.

J. S. [L. S.]

FORM OF CERTIFICATE OF DISMISSAL.

I HEREBY CERTIFY, That an information (or complaint) preferred by C. D. against A. B. for that (&c., as in the Summons) was this day considered by me, one of Her Majesty's Justices of the Peace in and for the (County or United Counties, or as the case may be) of , and was by me dismissed (with costs).

Dated this day of , one thousand eight hundred and

J. S.

GENERAL FORM OF NOTICE OF APPEAL AGAINST A CONVICTION.

To C. D. of &c., and (the names and additions of the parties to whom the notice of appeal is required to be given.)

TAKE NOTICE, That I, the undersigned A. B., of &c., do intend to enter and prosecute an appeal at the next General Quarter

* If at an adjournment, insert here: "To which day the hearing of this case hath been duly adjourned, of which the said C. D. had due notice."

† If the Informant or Complainant do not appear, these words may be omitted.

Sessions of the Peace, to be holden at _____, in and for the
(County, or United Counties, or as the case may be.) of
against a certain conviction (or order) bearing date on or about
the _____ day of _____ instant, and made by (you) C. D.,
Esquire, (one) of Her Majesty's Justices of the Peace for the said
(County or United Counties, or as the case may be.) of _____,
whereby I, the said A. B., was convicted of having or was ordered
to pay _____, (here state the offence as in the conviction,
information or Summons, or the amount adjudged to be paid, as in
the order, as correctly as possible): And further, take notice that
the grounds of my appeal are, first, that I am not guilty of the
said offence; secondly that the formal conviction drawn up and
returned to the Sessions is not in law sufficient to support the
said conviction of me the said A. B., (together with any other
grounds, care being taken that all are stated, as the Appellant will be
precluded from going into any other than those stated.)

Dated this _____ day of _____ one thousand eight
hundred and _____

A. B.

MEM.—If this notice be given by several Defendants, or by an Attorney it can
easily be adapted.

FORM OF RECOGNIZANCE TO TRY THE APPEAL, &c.

BE IT REMEMBERED, That on _____, A. B., of
(laborer,) and L. M. of _____ (grocer,) and N. O. of
(yeoman,) personally came before the undersigned, (one) of Her
Majesty's Justices of the Peace in and for the said (County or
United Counties, or as the case may be,) of _____, and sever-
ally acknowledged themselves to owe to our Sovereign Lady
the Queen, the several sums following, that is to say, the
said A. B. the sum of _____, and the said L. M. and N. O.
the sum of _____, each, of good and lawful money of
Canada, to be made and levied of their several goods and chat-
tels, lands and tenements respectively, to the use of our said
Lady the Queen, Her Heirs and Successors, if he the said A. B.
shall fail in the condition endorsed.

Taken and acknowledged the day and year first above men-
tioned, at _____, before me.

J. S.

The condition of the within written Recognizance is such,
that if the said A. B. shall, at the [next] General Quarter Ses-
sions of the Peace, to be holden at _____, on the
day of _____ next, in and for the said [County or United
Counties, or as the case may be.] of _____, enter and prosecute
an appeal against a certain conviction bearing date the
day of _____ instant, and made by me the said Justice,
whereby he the said A. B. was convicted, for that he the said
A. B. did on the _____ day of _____, at the Township
_____ of _____

of
may be
tion;))
perform
appeal,
in full f

FORM O

TAKE
pounds,
that you
of the H
[County
enter an

were con
perform
such Ap
ingly, the
levied on
Dated
hundred

COMPI

Procee
did, on th
(instant
C. D. in
say, (set
were used,
the said A
that the s
prays tha
Sureties t
him the sa
not make t
the said A
preservati

BE IT RE
in the year
[laborer], I

JUSTICES OF THE PEACE SUMMARY CONVICTIONS, (C. W.)

of , in the said *County or United Counties, or as the case may be*, of , (*here set out the offence as stated in the conviction*;) And further, that if the said A. B. shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said Recognizance to be void, or else to remain in full force and virtue.

FORM OF NOTICE OF SUCH RECOGNIZANCE TO BE GIVEN TO THE DEFENDENT (APPELLANT) AND HIS SURETY.

TAKE NOTICE, That you, A. B., are bound in the sum of pounds, and you, L. M. and N. O. in the sum of each, that you the said A. B. at the next General or Quarter Sessions of the Peace to be holden at , in and for the said [*County or United Counties, or as the case may be*] of enter and prosecute an Appeal against a conviction dated the day of [instant,] whereby you, A. B. were convicted of (*stating offence shortly*), and abide by and perform the Order of the Court to be made upon the trial of such Appeal; and unless you prosecute such Appeal accordingly, the Recognizance entered into by you will forthwith be levied on you.

Dated this day of one thousand eight hundred and

SURETIES.

COMPLAINT BY THE PARTY THREATENED FOR SURETIES FOR THE PEACE.

Proceed as in the Form (T.) to the asterisk, then;*
did, on the day of (instant or last past, as the case may be), threaten the said C. D. in the words or to the effect following, that is to say, (*set them out, with the circumstances under which they were used*); and that from the above and other threats used by the said A. B. towards the said C. D., he the said C. D. is afraid that the said A. B. will do him some bodily injury, and therefore prays that the said A. B. may be required to find sufficient Sureties to keep the peace and be of good behaviour towards him the said C. D.; and the said C. D. also saith that he doth not make this complaint against nor require such Sureties from the said A. B. from any malice or ill-will, but merely for the preservation of his person from injury.

FORM OF RECOGNIZANCE FOR THE SESSIONS.

BE IT REMEMBERED, That on the day of in the year of our Lord A. B. of [laborer], L. M. of (grocer), and N. O. of [butcher],

[*butcher*], personally came before [*us*] the undersigned. [*two*] of Her Majesty's Justices of the Peace for the said (*County or United Counties, or as the case may be*), of _____ and severally acknowledged themselves to owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful money of Canada, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said A. B. fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at _____, before us.

J. S.
J. T.

The condition of the within written Recognizance is such, that if the within bounden A. B. [of &c.] shall appear at the next Court of General or Quarter Sessions of the Peace to be holden in and for the said [*County or United Counties, or as the case may be*] of _____, to do and receive what shall be then and there enjoined him by the Court, and in the meantime shall keep the peace and be of good behaviour towards her Majesty and all Her liege people, and especially towards C. D. [of, &c.] for the term of _____ now next ensuing, then the said Recognizance to be void, or else to stand in full force and virtue.

FORM OF COMMITMENT IN DEFAULT OF SURETIES.

PROVINCE OF CANADA,
[*County or United Counties,* }
or as the case may be] of _____

To the Constable of the _____ in the County of _____ [*one* of the *United Counties* of _____, or as the case may be] and to the Keeper of the Common Gaol of the said County (or *United Counties, as the case may be*) at _____, in the said County (or in the County of _____):

WHEREAS On the _____ day of _____ instant, complaint on oath was made before the undersigned (or J. L. Esquire,) (one) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____, by C. D. of the Township of _____ in the said (*County, or as the case may be*) (laborer,) that A. B. of, &c., on the _____ day of _____, at the Township of _____ afore-
said, did threaten (&c., follow to end of complaint, as in form above, in the past tense, then): And whereas the said A. B. was this day brought and appeared before the said Justice (or J. S. Esquire, one of her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of _____, to answer unto the said complaint: And *having been

been r
sum of
each, a
Session
United
shall be
meanth
Her M
said C.
glects t
you the
the said
at
thereof,
you the
said A.
to impr
of the P
as well
time to k
Given
in the ye
as the ca

INDIC

AN ACT TO R
THE PEAC
SONS CH

WHE
the
if the seve
of her Maj
persons cha
such additi
that such c
Be it theref
or compla

INDICTABLE OFFENCES (C. W.) ACT.

been required by me to enter into his own Recognizance in the sum of _____ with two sufficient Sureties in the sum of _____ each, as well for his appearance at the next General Quarter Sessions of the Peace, to be held in and for the said (County or United Counties, or as the case may be) of _____, to do what shall be then and there enjoined him by the Court, as also in the meantime to keep the Peace and be of good behaviour towards Her Majesty and all Her liege people, and especially towards the said C. D. hath refused and neglected, and still refuses and neglects to find such Sureties); These are therefore to command you the said Constable of the the Township of _____ to take the said A. B., and him safely to convey to the [COMMON GAOL] at _____ aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said [COMMON GAOL] to receive the said A. B. into your custody, in the said [COMMON GAOL], there to imprison him* until the said next General Quarter Sessions of the Peace, unless he in the meantime find sufficient Sureties as well for his appearance at the said Sessions, as in the meantime to keep the peace as aforesaid.

Given under my Hand and Seal, this _____ day of _____ in the year of our Lord _____, at _____, in the [County, or as the case may be] aforesaid.

J. S. [L. s.]

INDICTABLE OFFENCES (C. W.) ACT. 16 VICT.
1853.

CAP. CLXXIX.

AN ACT TO FACILITATE THE PERFORMANCE OF THE DUTIES OF JUSTICES OF THE PEACE, OUT OF SESSIONS, IN UPPER CANADA, WITH RESPECT TO PERSONS CHARGED WITH INDICTABLE OFFENCES.

[Assented to, 14th June, 1853.]

WHEREAS it would conduce much to the improvement of the administration of Criminal Justice in Upper Canada, if the several Statutes and parts of Statutes relating to the duties of her Majesty's Justices of the Peace therein, with respect to persons charged with indictable offences, were consolidated, with such additions and alterations as may be deemed necessary, and that such duties should be clearly defined by positive enactment: Be it therefore enacted, &c., That in all cases where a charge or complaint [A] is made before any one or more of Her Majesty's

Majesty's Justices of the Peace for any Territorial Division in Upper Canada, that any person has committed or is suspected to have committed, any treason, felony or other indictable misdemeanor or offence within the limits of the jurisdiction of such Justice or Justices of the Peace, or that any person guilty or suspected to be guilty of having committed any such crime or offence elsewhere out of the jurisdiction of such Justice or Justices, is residing or being, or is suspected to reside or be within the limits of the jurisdiction of such Justice or Justices, then, and in every such case, if the person so charged or complained against shall not then be in custody, it shall be lawful for such Justice or Justices of the Peace to issue his or their Warrant (B) to apprehend such person, and to cause him to be brought before such Justice or Justices, or any other Justice or Justices for the same Territorial Division, to answer such charge or complaint and to be further dealt with according to law; Provided always, that in all cases it shall be lawful for such Justice or Justices to whom such charge or complaint shall be preferred, if he or they shall so think fit, instead of issuing in the first instance his or their Warrant to apprehend the person so charged or complained against, to issue his or their summons [C] directed to such person, requiring him to appear before the said Justice or Justices, at the time and place to be therein mentioned, or before such other Justice or Justices of the same Territorial Division as may then be there, and if, after being served with such Summons in manner hereinafter mentioned, he shall fail to appear at such time and place, in obedience to such Summons, then, and in every such case, the said Justice or Justices, or any other Justice or Justices of the Peace for the same Territorial Division, may issue his or their Warrant (D) to apprehend such person so charged or complained against, and cause such person to be brought before him or them, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the said charge or complaint, and to be further dealt with according to law: Provided nevertheless, that nothing herein contained shall prevent any Justice or Justices of the Peace from issuing the Warrant hereinbefore first mentioned, at any time before or after the time mentioned in such Summons for the appearance of the said accused party.

II. And be it enacted, That when any indictment shall be found by the Grand Jury in any Court of Oyer and Terminer or General Gaol Delivery, or in any Court of General or Quarter Sessions of the Peace, against any person who shall then be at large, and whether such person shall be bound by any Recognizance to appear to answer to any such charge or not, the person who shall act as Marshall at such Court of Oyer and Terminer or Gaol Delivery, or as Clerk of the Peace at such Sessions at which

the said
after the
ery, or
been for
on his
person
dictment
of such
such Co
County
indictm
person i
be supp
such Jus
issue his
ed, and
or any o
with acc
upon app
ces, such
affirmati
is the sa
shall, wit
for trial
or if such
prison for
ment at th
tificate to
for such J
upon its b
tion, that
prison are
[I], direct
the person
manding h
Majesty's
for the pur
he shall be
by due cou
tained shal
execution o
jurisdiction
Warrant.

III. And
or Justices
said, or any
day.

the said indictment shall be found, shall, at any time afterwards after the end of the Sessions of Oyer and Terminer or Gaol Delivery, or Sessions of the Peace, at which such indictment shall have been found, upon application of the Prosecutor, or of any person on his behalf, and on payment of a fee of one shilling, if such person shall not have already appeared and pleaded to such indictment, grant unto such Prosecutor or person a Certificate [F] of such indictment having been found; and upon production of such Certificate to any Justice or Justices of the Peace for the County or United Counties in which the offence shall in such indictment be alleged to have been committed, or in which the person indicted in and by such indictment shall reside or be, or be supposed or suspected to reside or be, it shall be lawful for such Justice or Justices, and he or they are hereby required to issue his or their Warrant (G) to apprehend such person so indicted, and to cause him to be brought before such Justice or Justices or any other Justice or Justices for the same District, to be dealt with according to law: and afterwards if such person be thereupon apprehended and brought before any such Justice or Justices, such Justice or Justices, upon its being proved upon oath or affirmation before him or them, that the person so apprehended is the same person who is charged and named in such indictment, shall, without further inquiry or examination, commit [H] him for trial or admit him to bail in manner hereinafter mentioned; or if such person so indicted shall be so confined in any gaol or prison for any other offence than that charged in the said indictment at the time of such application and production of such Certificate to such Justice or Justices as aforesaid, it shall be lawful for such Justice or Justices, and he or they are hereby required, upon its being proved before him or them upon oath or affirmation, that the person so indicted and the person so confined in prison are one and the same person, to issue his or their Warrant [I], directed to the Gaoler or Keeper of the gaol or prison in which the person so indicted shall then be confined as aforesaid, commanding him to detain such person in his custody, until, by Her Majesty's Writ of *Habeas Corpus*, he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall be otherwise removed or discharged out of his custody by due course of law: Provided always, that nothing herein contained shall prevent or be construed to prevent the issuing or execution of Bench Warrants, whenever any Court of competent jurisdiction may think proper to order the issuing of any such Warrant.

III. And be it enacted, That it shall be lawful for any Justice or Justices of the Peace to grant or issue any Warrant as aforesaid, or any Search Warrant, on a Sunday as well as on any other day.

IV. And be it enacted, That in all cases when a charge or complaint for any indictable offence shall be made before such Justice or Justices aforesaid, if it be intended to issue a Warrant in the first instance against such party or parties so charged, an information and complaint thereof (A) in writing, on the oath or affirmation of the informant, or of some witness or witnesses in that behalf, shall be laid before such Justice or Justices: Provided always, that in those cases only when it is intended to issue a Summons instead of a Warrant in the first instance, and where it is so specially provided in some Act of Parliament, it shall not be necessary that such information and complaint shall be in writing, or be sworn to or affirmed in manner aforesaid; but in every such case so provided for in some Act of Parliament as aforesaid, such information and complaint may be by parol merely, and without any oath or affirmation whatsoever to support or substantiate the same: Provided also, that no objection shall be taken or allowed to any such information or complaint for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses on that behalf as hereinafter mentioned; and if any credible Witness shall prove upon oath (E 1) before a Justice of the Peace, that there is reasonable cause to suspect that any property whatsoever, on or with respect to which any larceny of felony shall have been committed, is in any dwelling house, out-house, garden, yard, croft or other place or places, the Justice may grant a Warrant (E 2) to search such dwelling house, garden, yard, croft or other place or places, for such property.

V. And be it enacted, That upon such Information and complaint being so laid as aforesaid, the Justice or Justices receiving the same may, if he or they shall think fit, issue his or their Summons or Warrant respectively as hereinbefore directed, to cause the person charged as aforesaid to be and appear before him or them, or any other Justice or Justices of the Peace for the same Territorial Division, to be dealt with according to law: and every Summons (C) shall be directed to the party so charged in and by such information, and shall state shortly the matter of such information, and shall require the party to whom it is directed to be and appear at a certain time and place therein mentioned, before the Justice who shall issue such Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as may then be there, to answer to the said charge, and to be further dealt with according to law; and every such Summons shall be served by a Constable or other Peace Officer upon the person to whom it is so directed, by delivering the same to the party personally, or, if he cannot conveniently be met with, then

by lea
usual
who sh
at the
said Su
of such
appear
tioned
be lawf
rant (D
him bef
or Justi
charge
be furth
objection
Warrant
or for an
part of t
take the
after me
Justice o
thereby c
Justices,
hearing c
remand t
hereinaft

VI. An
be issued
any perso
the Hand
issuing th
stables or
same is to
stables or
the Justice
or general
last mentio
offence on
scribe the
whom it is
before the
some other
torial Divis
formation,
shall not be
particular t
be executed

by leaving the same for him with some person at his last or most usual place of abode; and the Constable or other Peace Officer who shall have served the same in manner aforesaid, shall attend at the time and place, and before the Justice or Justices in the said Summons mentioned, to depose if necessary, to the service of such Summons; and if the person so served shall not be and appear before such Justice or Justices, at the time and place mentioned in such Summons, in obedience to the same, then it shall be lawful for such Justice or Justices, to issue his or their Warrant (D) for apprehending the party so summoned, and bringing him before such Justice or Justices, or before some other Justice or Justices, for the same Territorial Division, to answer the charge in the said information and complaint mentioned, and to be further dealt with according to law: Provided always, that no objection shall be taken or allowed to any such Summons or Warrant for any alleged defect therein in substance or in form, or for any variance between it and the evidence adduced on the part of the Prosecutor before the Justice or Justices who shall take the examination of the Witnesses in that behalf as herein-after mentioned; but if any such variance shall appear to such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and, in the meantime, to remand the party so charged, or admit him to bail in manner hereinafter mentioned.

VI. And be it enacted, That every Warrant (B) hereafter to be issued by any Justice or Justices of the Peace to apprehend any person charged with any indictable offence, shall be under the Hand and Seal, or Hands and Seals, of the Justice or Justices issuing the same, and may be directed to all or any of the Constables or other Peace Officers of the District within which the same is to be executed, or to such Constable and all other Constables or Peace Officers in the Territorial Division within which the Justice or Justices issuing the same has or have jurisdiction, or generally to all the Constables or Peace Officers within such last mentioned Territorial Division; and it shall state shortly the offence on which it is founded, and shall name or otherwise describe the offender; and it shall order the person or persons to whom it is directed to apprehend the offender, and bring him before the Justice or Justices issuing such Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, to answer to the charge contained in the said information, and to be further dealt with according to law; and it shall not be necessary to make such Warrant returnable at any particular time, but the same may remain in force until it shall be executed; and such Warrant may be executed by apprehending

ing the offender at any place within the Territorial Division within which the Justice or Justices issuing the same shall have jurisdiction, or, in case of fresh pursuit, at any place in the next adjoining Territorial Division, and within seven miles of the border of such first mentioned Territorial Division, without having such Warrant backed, as hereinafter mentioned; and in all cases where such Warrant shall be directed to all Constables or other Peace Officers within the Territorial Division within which such Justice or Justices shall have jurisdiction, it shall be lawful for any Constable or other Peace Officer for any place within such Territorial Division to execute the said Warrant at any place within the jurisdiction for which the said Justice or Justices shall have acted when he or they granted such Warrant, in like manner as if such Warrant were directed specially to such Constable by name, and notwithstanding the place within which such Warrant shall be executed shall not be within the place for which he shall be Constable or Peace Officer; Provided always, that no objection shall be taken or allowed to any such Warrant for any defect therein, in substance or in form, or for any variance between it and the evidence adduced on the part of the prosecution, before the Justice or Justices who shall take the examination of the witnesses in that behalf as hereinafter mentioned; but if any such variance shall appear to any such Justice or Justices to be such that the party charged has been thereby deceived or misled, it shall be lawful for such Justice or Justices, at the request of the party so charged, to adjourn the hearing of the case to some future day, and in the meantime to remand the party so charged, or to admit him to bail in manner hereinafter mentioned.

VII. And be it enacted, That if the person against whom any such Warrant shall be issued, as aforesaid, shall not be found within the jurisdiction of the Justice or Justices by whom the same shall be issued, or if he shall escape, go into, reside or be, or be supposed or suspected to be in any place within this Province, whether in Upper or in Lower Canada out of the jurisdiction of the Justice or Justices issuing such Warrant, it shall and may be lawful for any Justice of the Peace within the jurisdiction of whom such person shall so escape or go, or in which he shall reside or be, or be supposed or suspected to be, upon proof alone being made on oath of the hand-writing of the Justice issuing the same, and without any security being given, to make an endorsement [K] on such Warrant, signed with his name, authorizing the execution of such Warrant within the jurisdiction of the Justice making such endorsement, and which endorsement shall be sufficient authority to the person bringing such Warrant, and to all other persons to whom the same was originally directed, and also to all Constables and other Peace Officers of the Terri-

torial
ecute
the per
appreh
issued
of the
Justice
in the
mitted
Witness
Territo
hended
so appr
backing
who sh
Justice
said Jus
such Pr
manner
fore a J
to have
in which

VIII.

any Jus
ible pers
is likely
not volu
witness
the witn
by requir
Hand an
place me
before su
Territoria
know cor
and if any
at the tim
just execu
proof upon
served up
for him a
ful for suc
have app
and Seals
be therin
mons, or h
the same?

torial Division where such Warrant shall be so endorsed, to execute the same in such other Territorial Division, and to carry the person against whom such Warrant shall have issued, when apprehended, before the Justice or Justices of the Peace who first issued the said Warrant, or before some other Justice or Justices of the Peace for the same Territorial Division, or before some Justice or Justices of the Territorial Division where the offence in the said Warrant mentioned appears therein to have been committed: Provided always, that if the Prosecutor or any of the Witnesses upon the part of the prosecution shall then be in the Territorial Division where such person shall have been so apprehended, the Constable, or other person or persons who shall have so apprehended such person may, if so directed by the Justice backing such Warrant, take and convey him before the Justice who shall have so backed the said Warrant, or before some other Justice or Justices for the same Territorial Division; and the said Justice or Justices may thereupon take the examination of such Prosecutor or Witnesses, and proceed in every respect in manner hereinafter directed with respect to persons charged before a Justice or Justices of the Peace, with an offence alleged to have been committed in another Territorial Division than that in which such persons have been apprehended.

VIII. And be it enacted, That if it shall be made to appear to any Justice of the Peace, by the oath or affirmation of any credible person, that any person within the jurisdiction of such Justice is likely to give material evidence for the prosecution, and will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the examination of the witnesses against the accused, such Justice may and is hereby required to issue his Summons [L 1] to such person under his Hand and Seal, requiring him to be and appear at a time and place mentioned in such Summons, before the said Justice, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify what he shall know concerning the charge made against such accused party; and if any person so summoned shall neglect or refuse to appear at the time and place appointed by the said Summons, and no just excuse shall be offered for such neglect or refusal, then (after proof upon oath or affirmation of such Summons having been served upon such person, either personally or with some person for him at his last or most usual place of abode,) it shall be lawful for such Justice or Justices before whom such person should have appeared, to issue a Warrant [L 2] under his or their Hands and Seals, to bring and have such person, at a time and place to be therein mentioned, before the Justice who issued the said Summons, or before such other Justice or Justices of the Peace for the same Territorial Division as shall then be there, to testify as aforesaid,

aforesaid, and which said Warrant may, if necessary, be backed as hereinbefore is mentioned, in order to its being executed out of the jurisdiction of the Justice who shall have issued the same; or if such Justice shall be satisfied by evidence upon oath or affirmation that it is probable that such person will not attend to give evidence unless compelled so to do, then, instead of issuing such Summons, it shall be lawful for him to issue his Warrant (L 3) in the first instance, and which, if necessary, may be backed as aforesaid, and if on the appearance of such person so summoned before the said last mentioned Justice or Justices, either in obedience to the said Summons or upon being brought before him or them by virtue of the said Warrant, such person shall refuse to be examined upon oath or affirmation concerning the premises, or shall refuse to take such oath or affirmation, or having taken such oath or affirmation shall refuse to answer such questions concerning the premises as shall then be put to him, without giving any just excuse for such refusal, any Justice of the Peace then present and having there jurisdiction, may, by Warrant [L 4] under his Hand and Seal, commit the person so refusing to the Common Gaol of the County where such person so refusing shall then be, there to remain and be imprisoned for any time not exceeding ten days, unless he shall in the meantime consent to be examined and to answer concerning the premises.

IX. And be it enacted, That in all cases where any person shall appear or be brought before any Justice or Justices of the Peace charged with any indictable offence, whether committed in this Province or upon the high seas, or on land beyond the sea, or whether such person appear voluntarily upon Summons or have been apprehended, with or without Warrant, or be in custody for the same or any other offence, such Justice or Justices before he or they shall commit such accused person to prison for trial, or before he or they shall admit him to bail, shall in the presence of such accused person, who shall be at liberty to put questions to any witness produced against him, take the statement [M] on oath or affirmation of those who shall know the facts and circumstances of the case, and shall put the same in writing, and such depositions shall be read over to and signed respectively by the witnesses who shall have been so examined, and shall be signed also by the Justice or Justices taking the same; and the Justice or Justices before whom any such witness shall appear to be examined as aforesaid, shall, before such witness is examined, administer to such witness the usual oath or affirmation, which such Justice or Justices shall have full power and authority to do; and if upon the trial of the person so accused as first aforesaid, it shall be proved upon the oath or affirmation of any credible witness, that any person whose deposition shall have been taken as aforesaid is dead, or is so ill as not to

be able
was tak
his Cou
ing the
the Jus
taken, i
such pr
proved t
purporti

X. And
witness
been com
by or be
pleted a
the witn
sitions ta
words to
"wish to
"obliged
"ever yo
"in evid
prisoner s
writing (l
said Justi
nesses, an
tioned; a
the same
without fu
Justice or
sign the s
before suc
to him and
hope from
threat whi
to make a
ever he sh
upon his tr
nevertheles
vent the pr
mission or
charged, m
as evidence

XI. And
ing in whic
tion and sta
Court for th
or Justices,

be able to travel, and if also it be proved that such deposition was taken in presence of the person so accused, and that he or his Counsel or Attorney, had a full opportunity of cross-examining the witness, then if such deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be lawful to read such deposition as evidence in such prosecution without further proof thereof, unless it shall be proved that such deposition was not in fact signed by the Justice purporting to sign the same.

X. And be it enacted, That after the examinations of all the witnesses on the part of the prosecution as aforesaid shall have been completed, the Justice of the Peace, or one of the Justices by or before whom such examination shall have been so completed as aforesaid, shall, without requiring the attendance of the witnesses, read or cause to be read to the accused the depositions taken against him, and shall say to him these words, or words to the like effect: "Having heard the evidence, do you wish to say anything in answer to the charge? You are not obliged to say anything unless you desire to do so, but whatever you say will be taken down in writing, and may be given in evidence against you upon your trial." And whatever the prisoner shall then say in answer thereto shall be taken down in writing (N) and read over to him, and shall be signed by the said Justice or Justices, and kept with the depositions of the witnesses, and shall be transmitted with them as hereinafter mentioned; and afterwards, upon the trial of the said accused person, the same may, if necessary, be given in evidence against him without further proof thereof, unless it shall be proved that the Justice or Justices purporting to sign the same did not in fact sign the same: Provided always, that the said Justice or Justices, before such accused person shall make any statement, shall state to him and give him clearly to understand that he has nothing to hope from any promise of favor, and nothing to fear from any threat which may have been holden out to him to induce him to make any admission or confession of his guilt, but that whatever he shall then say may be given in evidence against him upon his trial, notwithstanding such promise or threat: Provided nevertheless, that nothing herein contained or enacted shall prevent the prosecutor in any case from giving in evidence any admission or confession, or other statement of the person accused or charged, made at any time which by law would be admissible as evidence against such person.

XI. And be it declared and enacted, That the room or building in which such Justice or Justices shall take such examination and statement as aforesaid, shall not be deemed an open Court for that purpose; and it shall be lawful for such Justice or Justices, in his or their discretion, to order that no person shall

shall have access to or be or remain in such room or building without the consent or permission of such Justice or Justices, if it appear to him or them that the ends of Justice will be best answered by so doing.

XII. And be it enacted, That it shall be lawful for any such Justice or Justices before whom any such witness shall be examined as aforesaid, to bind by Recognizance (O 1) the Prosecutor, and every such witness, to appear at the next Court of competent Criminal Jurisdiction at which the accused is to be tried, then and there to prosecute or prosecute and give evidence, or to give evidence, as the case may be, against the party accused, which said Recognizance shall particularly specify the profession, art, mystery or trade of every such person entering into or acknowledging the same, together with his Christian and surname, and the Township or place of his residence, or if his residence be in a City, Town or Borough, the Recognizance shall also particularly specify the name of the said City, Town or Borough, and when convenient so to do, of the street and the number [if any] of the house in which he resides, and whether he is owner or tenant thereof, or lodger therein; and the said Recognizance, being duly acknowledged by the person so entering into the same, shall be subscribed by the Justice or Justices before whom the same shall be acknowledged, and a notice (O 2) thereof, signed by the said Justice or Justices, shall at the same time be given to the person bound thereby; and the several Recognizances so taken, together with the written information (if any), the depositions, the statement of the accused, and the Recognizance of Bail (if any) in every such case shall be delivered by the said Justice or Justices, or he or they shall cause the same to be delivered to the proper Officer of the Court in which the trial is to be had, before or at the opening of the said Court on the first day of the sitting thereof, or at such other time as the Judge, Justice or person who is to preside at such Court at the said trial shall order and appoint; Provided always, that if any such witness shall refuse to enter into or acknowledge such Recognizance as aforesaid, it shall be lawful for the Justice or Justices of the Peace by his or their Warrant (P 1) to commit him to the Common Gaol for the County in which the accused party is to be tried, there to be imprisoned and safely kept until after the trial of such accused party, unless in the meantime such witness shall duly enter into such Recognizance as aforesaid before some one Justice of the Peace for the Territorial Division in which such Gaol shall be situate: Provided nevertheless, that if afterwards, for want of sufficient evidence in that behalf, or other cause, the Justice or Justices before whom such accused party shall have been brought shall not commit him or hold him to bail for the offence with which he is charged, it shall be law-

ful for
tices for
(P 2) in
mon Ga
him fro
dischar

XIII.

es, or fr
or advis
the with
tice or
brought
mand th
tices in
ing eigh
House o
security
Justices
exceedin
Justices
custody s
ble or pe
behalf, to
and to br
tices as s
ing such
Justices n
or them, c
the same
of the tim
ler or Offi
such orde
cused par
party shal
whom suc
discharge
with or wi
Justice, co
pointed for
accused pa
mentioned
other Justic
upon cert
non-appeal
cognizance
within whic
proceeded

ful for such Justice or Justices, or for any other Justice or Justices for the same Territorial Division, by his or their Order (P 2) in that behalf, to order and direct the Keeper of such Common Gaol where such witness shall be so in custody, to discharge him from the same, and such Keeper shall thereupon forthwith discharge him accordingly.

XIII. And be it enacted, That if from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the Justice or Justices before whom the accused shall appear or be brought, by his or their Warrant (Q 1) from time to time to remand the party accused for such time as by such Justice or Justices in their discretion shall be deemed reasonable, not exceeding eight clear days at any one time, to the Common Gaol or House of Correction or other Prison, Lock-up House, or place of security in the Territorial Division for which such Justice or Justices shall then be acting; or if the remand be for a time not exceeding three clear days, it shall be lawful for such Justice or Justices verbally to order the Constable, or other person in whose custody such party accused may then be, or any other Constable or person to be named by the said Justice or Justices in that behalf, to continue or keep such party accused in his custody, and to bring him before the same or such other Justice or Justices as shall be there acting at the time appointed for continuing such examination: Provided always, that any such Justice or Justices may order such accused party to be brought before him or them, or before any other Justice or Justices of the Peace for the same Territorial Division, at any time before the expiration of the time for which such party shall be remanded, and the Gaoler or Officer in whose custody he shall then be shall duly obey such order: Provided also, that instead of detaining the said accused party in custody during the period for which such accused party shall be so remanded, any one Justice of the Peace before whom such party shall so appear or be brought as aforesaid, may discharge him, upon his entering into a Recognizance (Q 2, 3,) with or without a Surety or Sureties, at the discretion of such Justice, conditioned for his appearance at the time and place appointed for the continuance of such examination; and if such accused party shall not afterwards appear at the time and place mentioned in such Recognizance, then the said Justice, or any other Justice of the Peace who may then and there be present, upon certifying (Q 4) upon the back of the Recognizance the non-appearance of such accused party, may transmit such Recognizance to the Clerk of the Peace for the Territorial Division within which such Recognizance shall have been taken, to be proceeded upon in like manner as other Recognizances, and such

Certificate shall be deemed sufficient *prima facie* evidence of such non-appearance of the said accused party.

XIV. And whereas it often happens that a person is charged before a Justice of the Peace with an offence alleged to have been committed in another Territorial Division than that in which such person has been apprehended, or in which such Justice has jurisdiction, and it is necessary to make provision as to the manner of taking the examination of the witnesses, and of committing the party accused or admitting him to bail in such a case: Be it therefore enacted, That whenever a person shall appear or be brought before a Justice or Justices of the Peace in the Territorial Division wherein such Justice or Justices shall have jurisdiction, charged with an offence alleged to have been committed by him within any Territorial Division wherein such Justice or Justices shall not have jurisdiction, it shall be lawful for such Justice or Justices, and he or they are hereby required to examine such witness, and receive such evidence in proof of the said charge as shall be produced before him or them within his or their jurisdiction: and if in his or their opinion such testimony and evidence shall be sufficient proof of the charge made against such accused party, such Justice or Justices shall thereupon commit him to the Common Gaol for the County where the offence is alleged to have been committed, or shall admit him to bail as hereinafter mentioned, and shall bind over the prosecutor (if he have appeared before him or them) and the witnesses, by Recognizance accordingly as hereinbefore mentioned; but if such testimony and evidence shall not, in the opinion of such Justice or Justices be sufficient to put the accused party upon his trial for the offence with which he is so charged, then such Justice or Justices shall bind over such witness or witnesses as he shall have examined by Recognizance to give evidence as hereinbefore is mentioned; and such Justice or Justices shall, by Warrant (R 1) under his or their Hand and Seal, or Hands and Seals, order the said accused party to be taken before some Justice or Justices of the Peace in and for the Territorial Division where the offence is alleged to have been committed, and shall at the same time deliver up the Information and Complaint, and also the Depositions and Recognizances so taken by him or them to the Constable who shall have the execution of such last mentioned Warrant, to be by him delivered to the Justice or Justices before whom he shall take the accused, in obedience to the said Warrant, and which said Depositions and Recognizances shall be deemed to be taken in the case, and shall be treated to all intents and purposes as if they had been taken by or before the said last mentioned Justice or Justices, and shall, together with such Depositions and Recognizances as such last mentioned Justice or Justices shall take in the matter of such charge against the

the said
or other
in the
accused
or shall
be taken
of the s
son or p
and who
mention
costs an
the said
person p
Justices
the said
and upon
tices the
nizances
Justice o
tice or J
shall ther
ficate (R
the said
tion (if a
proved to
who shall
ble, on pr
High Bai
if not, the
party wa
able char
into such
from the

XV. And
before any
picion of
such Justi
as hereina
assumption
and may b
tice of the
and produc
two Justic
person so
to be tried
shall take
and his sur

the said accused party, be transmitted to the Clerk of the Court or other proper Officer where the said accused party is to be tried, in the manner and at the time hereinbefore mentioned, if such accused party shall be committed for trial upon the said charge, or shall be admitted to bail; and in case such accused party shall be taken before the Justice or Justices last aforesaid, by virtue of the said last mentioned Warrant, the Constable, or other person or persons to whom the said Warrant shall have been directed, and who shall have conveyed such accused party before such last mentioned Justice or Justices, shall be entitled to be paid his costs and expenses of conveying the said accused party before the said Justice or Justices; and upon the said Constable or other person producing the said accused party before such Justice or Justices, and delivering him into the custody of such person as the said Justice or Justices shall direct or name in that behalf, and upon the said Constable delivering to the said Justice or Justices the Warrant, Information (if any) Depositions and Recognizances aforesaid, and proving by oath the hand-writing of the Justice or Justices who shall have subscribed the same, such Justice or Justices before whom the said accused party is produced shall thereupon furnish such Constable with a Receipt or Certificate (R 2) of his or their having received from him the body of the said accused party, together with the said Warrant, Information (if any), Depositions and Recognizances, and of his having proved to him or them, upon oath, the hand-writing of the Justice who shall have issued the said Warrant; and the said Constable, on producing such Receipt or Certificate to the Sheriff or High Bailiff, if he shall have been employed by such Officer, and if not, then to the Treasurer of the County in which such accused party was apprehended, will be entitled to be paid all his reasonable charges, costs and expenses of conveying such accused party into such other County or Territorial Division, and returning from the same.

XV. And be it enacted, That when any person shall appear before any Justice of the Peace charged with a felony or suspicion of felony, and the evidence adduced shall in the opinion of such Justice be sufficient to put such accused party on his trial as hereinafter mentioned, but shall not furnish such a strong presumption of guilt as to warrant his committal for trial, it shall and may be lawful for such Justice jointly with some other Justice of the Peace to admit such person to bail upon his procuring and producing such surety or sureties as in the opinion of such two Justices will be sufficient to ensure the appearance of such person so charged, at the time and place when and where he is to be tried for such offence; and thereupon such two Justices shall take the Recognizance (S 1, 2.) of the said accused person and his surety or sureties, conditioned for the appearance of such

accused person at the time and place of trial, and that he will then surrender and take his trial and not depart the Court without leave; Provided firstly, that when the offence committed or suspected to have been committed is a misdemeanor, any one Justice may admit to bail in manner aforesaid; and such Justice or Justices may at their discretion require that such bail should justify upon oath as to their sufficiency, which oath the said Justice or Justices is and are hereby authorized to administer, and in default of such person procuring sufficient bail, then such Justice or Justices may commit him to prison, there to be kept until delivered according to law; Provided secondly, and it is hereby declared and enacted, that in all cases of felony, where the party accused shall be finally committed as hereinafter provided, it shall be lawful for any County Judge who may be also a Justice of the Peace for the County within the limits of which such accused party is confined, in his discretion on application made to him for that purpose, to order such accused party or person to be admitted to bail on entering into Recognizance with sufficient sureties for such an amount, before two Justices of the Peace as the said Judge shall direct, and thereupon such Justices shall issue a warrant of deliverance (S 3,) as hereinafter provided, and shall attach thereto the order of the Judge directing the admitting of such party to bail; Provided lastly, that no Justice or Justices of the Peace, or County Judge shall admit any person to bail accused of treason or murder, nor shall any such person be admitted to bail, except by order of Her Majesty's Court of Queen's Bench or of Common Pleas, or one of the Judges thereof in vacation, and nothing herein contained, shall prevent such last mentioned Judges admitting any person accused of misdemeanor or felony to bail when they may think it right so to do.

XVI. And be it enacted, That in all cases where a Justice or Justices of the Peace shall admit to bail any person who shall then be in any prison charged with the offence for which he shall be so admitted to bail, such Justice or Justices shall send to or cause to be lodged with the Keeper of such Prison, a Warrant of Deliverance (S 3,) under his or their Hand and Seal or Hands and Seals, requiring the said Keeper to discharge the person so admitted to bail if he be detained for no other offence, and upon such Warrant of Deliverance being delivered to or lodged with such Keeper, he shall forthwith obey the same.

XVII. And be it enacted, That when all the evidence offered upon the part of the prosecution against the accused party shall have been heard, if the Justice or Justices of the Peace then present shall be of opinion that it is not sufficient to put such accused party upon his trial, for any indictable offence, such Justice or Justices shall forthwith order such accused party, if in custody to be discharged as to the Information then under

inquiry
evidence
for an i
presump
to comm
with w
Justices
but if th
as to ra
Justices
Common
by Law
committe
Common
tice or J
until he s

XVIII.

Constable
ment shall
convey su
Gaol or
deliver hi
or Govern
such Cons
his custod
state and
delivered i

XIX. A

examinatio
the first da
at which a
as aforesaid
entitled to
of the same
been comm
the same, n
of one hund

XX. And

to this Act
valid and su

XXI. And

tendent of
appointed o
have full pow
to be done b
the several

inquiry, but if in the opinion of such Justice or Justices such evidence is sufficient to put the accused party upon his trial for an indictable offence, although it may not raise such a strong presumption of guilt as would induce such Justice or Justices to commit the accused for trial without bail, or if the offence with which the party is accused be a misdemeanor, then such Justices shall admit the party to bail as hereinbefore provided, but if the offence be a felony, and the evidence be given such as to raise a strong presumption of guilt, then such Justice or Justices shall by his or their warrant [T 1.] commit him to the Common Gaol for the Territorial Division to which he may now by Law be committed, or in the case of an indictable offence committed on the High Seas or on land beyond the Sea, to the Common Gaol of the Territorial Division within which such Justice or Justices shall have jurisdiction, to be there safely kept until he shall thence be delivered by due course of Law.

XVIII. And be it enacted, That the Constable or any of the Constables, or other persons to whom any Warrant of Commitment shall be directed, authorized by this or any other Act, shall convey such accused person therein named or described to the Gaol or other Prison mentioned in such Warrant, and there deliver him, together with such Warrant, to the Gaoler, Keeper or Governor of such Gaol or Prison, who shall thereupon give such Constable or other person so delivering such prisoner into his custody a Receipt [T 2.] for such prisoner, setting forth the state and condition in which such prisoner was when he was delivered into the custody of such Gaoler, Keeper or Governor.

XIX. And be it enacted, That at any time after all the examinations aforesaid shall have been completed, and before the first day of the Sessions, or other first sitting of the Court at which any person so committed to prison or admitted to bail as aforesaid is to be tried, such person may require and shall be entitled to have, from the Officer or person having the custody of the same, copies of the depositions on which he shall have been committed or bailed, on payment of a reasonable sum for the same, not exceeding the rate of Three Pence for each folio of one hundred words.

XX. And be it enacted, That the several forms in the Schedule to this Act contained, or forms to the like effect, shall be good, valid and sufficient in law.

XXI. And be it enacted, That any Inspector and Superintendent of Police, Police Magistrate or Stipendary Magistrate, appointed or to be appointed for any Territorial Division, shall have full power to do alone whatever is authorized by this Act to be done by any two or more Justices of the Peace, and that the several forms in the Schedule to this Act annexed, may be varied

varied so far as it may be necessary to render them applicable to such Inspector and Superintendent of Police, Police Magistrate or Stipendary Magistrate aforesaid.

XXII. And be it enacted, That from and after the day on which this Act shall commence to take effect, all other Act or Acts or parts of Acts which are contrary to or inconsistent with the provisions of this Act, shall be and the same are hereby repealed.

XXIII. And be it enacted, That this Act shall apply only to Upper Canada, except in so far as any provision thereof is expressly extended to Lower Canada, or to any act to be done there.

XXIV. And be it enacted, That this Act shall commence and have force and effect upon, from and after the first day of July, one thousand eight hundred and fifty-three, and not before.

SCHEDULES.

(A.—See Sections I & IV.)

INFORMATION AND COMPLAINT FOR AN INDICTABLE OFFENCE,

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be,) of

The information and complaint of C. D. of (yeoman), taken this day of , in the year of our Lord before the undersigned, (one of Her) Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , who saith that &c., (stating the offence).

Sworn before (me,) the day and year first above mentioned, at .

J. S.

(B.—See Sections I & VI.)

WARRANT TO APPREHEND A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be,) of

To all or any of the Constables or other Peace Officers in the (County or United Counties, or as the case may be,) of :

WHEREAS A. B., of , (laborer,) hath this day been charged upon oath before the undersigned, (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties,

INDICTABLE OFFENCES (C. W.) ACT.

Counties, or as the case may be, of _____, *for that he, on* _____, *at* _____, *did*
(*&c. stating shortly the offence*); These are therefore to command
you in Her Majesty's name, forthwith to apprehend the said A.
B., and to bring him before (*me*) or some other of Her Majesty's
Justices of the Peace in and for the said (*County or United Coun-*
ties, or as the case may be) of _____, *to*
answer unto the said charge, and to be further dealt with accord-
ing to law.

Given under (*my*) Hand and Seal, this _____ day
of _____, at _____, in the (*County &c.*),
aforesaid.

J. S. [L. S.]

(C.—See Sections I & V.)

SUMMONS TO A PERSON CHARGED WITH AN INDICTABLE OFFENCE.

PROVINCE OF CANADA, }
(*County or United Counties,* }
or as the case may be,) of }
To A. B. of _____, (*laborer*):

WHEREAS You have this day been charged before the under-
signed (*one*) of Her Majesty's Justices of the Peace in and for the
said (*County or United Counties, or as the case may be,*) of
_____ for that you on _____, at _____,
(*&c., stating shortly the offence*); These are therefore to command
you, in Her Majesty's name, to be and appear before (*me*) on
_____ at _____ o'clock in the (*fore*) noon,
_____, or before such other Justice or Justices of
the Peace for the same (*County or United Counties or as the case*
may be,) of _____, as may then be there, to answer
to the said charge, and to be further dealt with according to law.
Herein fail not.

Given under (*my*) Hand and Seal, this _____ day of
_____, in the year of our Lord _____, at _____,
in the (*County, &c.*) aforesaid.

J. S. [L. S.]

(D 1.—See Sections I & V.)

WARRANT WHEN THE SUMMONS IS DISOBEYED.

PROVINCE OF CANADA, }
(*County or United Counties,* }
or as the case may be,) of }
To all or any of the Constables, or other Peace Officers in the

said (*County or United Counties, or as the case may be*) of _____:
WHEREAS On the _____ day of _____ (*instant*
225 _____ or

or last past) A. B. of the _____, was charged before
 (me or us) the undersigned, (or name the Magistrate or Magistrates,
 or as the case may be) (one) of Her Majesty's Justices of the Peace
 in and for the said (County or United Counties, as the case may be,) of
 _____, for
 that (&c., as in the Summons); And whereas (I, he, the said Jus-
 tice of the Peace, or they, the said Justices of the Peace) then
 issued (my, our, his or their,) Summons to the said A. B., com-
 manding him, in Her Majesty's name, to be and appear before
 (me) on _____ at _____ o'clock in the (fore) noon,
 at _____, or before such other Justice or Justices of
 the Peace as should then be there, to answer to the said charge,
 and to be further dealt with according to law; And whereas the
 said A. B. hath neglected to be or appear at the time and place
 appointed in and by the said Summons, although it hath now been
 proved to (me) upon oath, that the said Summons was duly served
 upon the said A. B.; These are therefore to command you, in
 Her Majesty's name, forthwith to apprehend the said A. B., and
 to bring him before (me) or some other of Her Majesty's Justices
 of the Peace in and for the said (County or United Counties, or as
 the case may be) of _____, to answer the said charge,
 and to be further dealt with according to law.

Given under (my) Hand and Seal, this _____ day
 of _____, in the year of our Lord _____, at
 _____, in the (County) of _____ aforesaid.
 J. S. [L. S.]

(E 1.—See Section IV.)

INFORMATION TO OBTAIN A SEARCH WARRANT.

PROVINCE OF CANADA,
 (County or United Counties, }
 or as the case may be) of _____

THE Information of A. B. of the _____, of _____, in
 the said (County &c.) (yeoman), taken this _____ day of
 _____, in the year of our Lord _____, before me,
 W. S., Esquire, one of Her Majesty's Justices of the Peace, in
 and for the (County or United Counties, or as the case may be) of
 _____, who saith that on the

day of _____, (insert description of articles stolen,
 of the goods and chattels of Deponent, were feloniously stolen,
 taken and carried away, from and out of the (Dwelling House &c.,)
 of this Deponent, at the (Township &c.) aforesaid, by (some per-
 son or persons unknown, or name the person,) and that he hath just
 and reasonable cause to suspect, and doth suspect that the said
 goods and chattels, or some part of them, are concealed in the
 (Dwelling House &c., of C. D.) of _____, in the said
 (County) (here add the causes of suspicion, whatever they may be):—

Where
 him to s
 said, for
 and car
 Swor

PROVIN
 (County o
 or as the
 To all or
 (Count
 WHERE
 the said [
 undersign
 for the sai

[copy infor
 are therefo
 authorize
 necessary
 said [Dwel
 search for
 part thereo
 goods so fo
 some other
 United Coun
 disposed of
 Given un
 [County, &c
 of our Lord,

I HEREBY O
 General Gao
 in and for the
 of

Jury against

INDICTABLE OFFENCES (C. W.) ACT.

Wherefore, (he) prays that a Search Warrant may be granted to him to search (the Dwelling House, &c.,) of the said C. D. as aforesaid, for the said goods and chattels so feloniously stolen, taken and carried away as aforesaid.

Sworn before me the day and year first above mentioned, at
in the said (County) of

W. S.
J. P.

(E 2.—See Section IV.)

SEARCH WARRANT.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be,) of

To all or any of the Constables, or other Peace Officers, in the
(County or United Counties, or as the case may be) of

WHEREAS A. B. of the , of , in
the said [County &c.,] hath this day made oath before me the
undersigned, one of Her Majesty's Justices of the Peace, in and
for the said [County, or United Counties, or as the case may be.] of
, that on the day of

[copy information as far as place of supposed concealment]; These
are therefore in the name of our Sovereign Lady the Queen, to
authorize and require you, and each and every of you, with
necessary and proper assistance, to enter in the day time into the
said [Dwelling House, &c., of the said, &c.] and there diligently
search for the said goods and chattels, and if the same or any
part thereof shall be found upon such search, that you bring the
goods so found, and also the body of the said C. D. before me, or
some other Justice of the Peace, in and for the said (County or
United Counties, or as the case may be) of to be
disposed of and dealt with according to law.

Given under my Hand and Seal, at , in the said
[County, &c.] this day of , in the year
of our Lord, one thousand eight hundred and
W. S. J. P. [Seal.]

[F.—See Section II.]

CERTIFICATE OF INDICTMENT BEING FOUND

I HEREBY CERTIFY, That at a Court of [Oyer and Terminer, or
General Gaol Delivery, or General Sessions of the Peace] holden
in and for the [County or United Counties, or as the case may be,]
of , at , in the said [County, &c.] on
, a Bill of Indictment was found by the Grand
Jury against A. B., therein described as A. B. late of
(laborer,)

(*laborer*), for that he (*&c.*, *stating shortly the offence*.) and that the said A. B. hath not appeared or pleaded to the said indictment.

Dated this _____, day of _____, one thousand eight hundred and _____

Z. X.

Clerk of the Crown or Deputy Clerk of the Crown for the (*County or United Counties, as the case may be*),
or

Clerk of the Peace of and for the said (*County or United Counties, as the case may be*.)

(G.—See Section II.)

WARRANT TO APPREHEND A PERSON INDICTED.

PROVINCE OF CANADA, }
[*County or United Counties,*]
or as the case may be,] of

To all or any of the Constables, or other Peace Officers, in the said [*County or United Counties or as the case may be*] of _____ :

WHEREAS It hath been duly certified by J. D., Clerk of the Crown of (*name the Court*) or E. G. Deputy Clerk of the Crown, or Clerk of the Peace, as the case may be in and for the [*County or United Counties, or as the case may be*] of _____ that [*&c.*, *stating the certificate*] ; These are therefore to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before [*me*], or some other Justice or Justices of the Peace in and for the said (*County or United Counties, or as the case may be*), to be dealt with according to law.

Given under my Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (*County &c.*) aforesaid.

J. S. [L. S.]

(H.—See Section II.)

WARRANT OF COMMITMENT OF A PERSON INDICTED.

PROVINCE OF CANADA, }
County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers in the said (*County, &c.*) of _____ and to the Keeper of the Common Gaol, at _____, in the said (*County or United Counties, or as the case may be*) of _____

WHEREAS By a Warrant under the Hand and Seal of (*one*) of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*), of _____ under Hand and Seal, dated _____ the day of _____, after

after reciting that it had been certified by J. D. (&c. as in the certificate,) () the said Justice of the Peace commanded all or any of the Constables, in Her Majesty's name, forthwith to apprehend the said A. B. and to bring him before (him) the said Justice of the Peace in and for the said (County or United Counties, or as the case may be) of or before some other Justice or Justices in and for the said (County or United Counties, or as the case may be) to be dealt with according to law; And whereas the said A. B. hath been apprehended under and by virtue of the said Warrant, and being now brought before (me) it is hereupon duly proved to (me) upon oath that the said A. B. is the same person who is named and charged by , in the said indictment; These are therefore to command you the said Constables and Peace Officers, or any of you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said Common Gaol at , in the said (County or United Counties, or as the case may be) of and there to deliver him to the Keeper thereof, together with this Precept; and (I) hereby command you the said Keeper to receive the said A. B. into your custody in the said Gaol, and him there safely to keep until he shall thence be delivered by due course of law.

Given under (my) Hand and Seal, this , at day of , in the year of our Lord , in the [County, &c.,] aforesaid.

J. S. [L. s.]

[I.—See Section II.]

WARRANT TO DETAIN A PERSON INDICTED, WHO IS ALREADY IN CUSTODY FOR ANOTHER OFFENCE.

PROVINCE OF CANADA, }
[County or United Counties, }
or as the case may be] of

To the Keeper of the Common Gaol at in the said [County or United Counties, or as the case may be] of

WHEREAS It hath been duly certified by J. D., Clerk of the Crown of [name the Court] or Deputy Clerk of the Crown, or Clerk of the Peace of and for the [County or United Counties, or as the case may be] of that [&c stating the Certificate]; And whereas [I am] informed that the said A. B. is in your custody in the said Common Gaol at aforesaid charged with some offence, or other matter; and it being now duly proved upon oath before [me] that the said A. B. so indicted as aforesaid, and the said A. B. in your custody as aforesaid, are one and the same person; These are therefore to command you in Her Majesty's name, to detain the said A. B. in your custody in

LEGAL FORMS AND LAW MANUAL.

in the Common Gaol aforesaid, until by Her Majesty's Writ of *Habeas Corpus* he shall be removed therefrom for the purpose of being tried upon the said indictment, or until he shall be otherwise removed or discharged out of your custody by due course of law.

Given under (my) Hand and Seal, this
day of _____, in the year of our Lord _____,
at _____, in the (County, &c.,) aforesaid.
J. S. [L. S.]

(K.—See Section VII.)

ENDORSEMENT IN BACKING A WARRANT.

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be) of }

WHEREAS Proof upon oath hath this day been made before me, one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, that the name of J. S., to the within Warrant subscribed, is of the hand-writing of the Justice of the Peace within mentioned; I do therefore hereby authorize W. T. who bringeth to me this Warrant, and all other persons to whom this Warrant was originally directed, or by whom it may be lawfully executed, and also all Constables and other Peace Officers of the said (County or United Counties, or as the case may be) of _____, to execute the same within the last mentioned (County or United Counties, or as the case may be).

Given under my Hand, this _____ day of _____,
in the year of our Lord _____, at _____,
in the (County, &c.,) aforesaid.

J. L.

(L 1.—See Section VIII.)

SUMMONS TO A WITNESS.

PROVINCE OF CANADA, }
(County or United Counties, }
or as the case may be) of }

To E. F. of _____, (laborer) :

WHEREAS Information has been laid before the undersigned, one of Her Majesty's Justices of the Peace in and for the said [County or United Counties, or as the case may be] of _____, that A. B. (&c., as in the Summons or Warrant against the accused,) and it hath been made to appear to me upon (oath), that you are likely to give material evidence for (prosecution); These are therefore to require you to be and to appear before

INDICTABLE OFFENCES (C. W.) ACT.

me on next, at o'clock in the (fore) noon, at
or before such other Justice or Justices of the Peace for the
same (County or United Counties, or as the case may be) of
as may then be there, to testify what you shall know concerning
the said charge so made against the said A. B. as aforesaid.
Herein fail not.

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the [County, &c.,]
aforesaid.

J. S. [L. S.]

[L 2.—See Section VIII.]

WARRANT WHEN A WITNESS HAS NOT OBEYED A SUMMONS.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers in the
said [County or United Counties, or as the case may be]
of :

WHEREAS Information having been laid before
(one) of Her Majesty's Justices of the Peace, in and for the said
[County, &c.,] of , that A. B., [&c. as in the Summons];
And it having been made to appear to [me] upon oath that E. F.
of [laborer,] was likely to give material evidence for
the prosecution, [I] did duly issue [my] Summons to the said
E. F., requiring him to be and appear before (me) on , at
, or before such other Justice or Justices of the
Peace for the same [County or United Counties, or as the case
may be,] as might then be there, to testify what he should know
respecting the said charge so made against the said A. B. as
aforesaid; And whereas proof hath this day been made upon
oath before (me) of such Summons having been duly served upon
the said E. F.; And whereas the said E. F. hath neglected to
appear at the time and place appointed by the said Summons
and no just excuse has been offered for such neglect; These are
therefore to command you to bring and have the said E. F.
before [me] on at o'clock in the (fore) noon, at
or before such other Justice or Justices of the Peace for the same
[County or United Counties, or as the case may be] as may then be
there, to testify what he shall know concerning the said charges
so made against the said A. B. as aforesaid.

Given under [my] Hand and Seal, this day of
in the year of our Lord , at ,
in the [County, &c.,] aforesaid.

J. S. [L. S.]

[L 3.—See Section VIII.]

WARRANT FOR A WITNESS IN THE FIRST INSTANCE.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables or Peace Officers in the said
(County or United Counties, or as the case may be) of :

WHEREAS Information has been laid before the undersigned,
(one) of Her Majesty's Justices of the Peace, in and for the said
(County, or United Counties, or as the case may be) of
that (&c., as in the Summons); and it having been made to
appear to (me) upon oath, that E. F. of (laborer),
is likely to give material evidence for the prosecution, and that
it is probable that the said E. F. will not attend to give evidence
unless compelled to do so; These are therefore to command you
to bring and have the said E. F. before [me] on
at o'clock in the [fore] noon, at , or before
such other Justice or Justices of the Peace for the same [County
or United Counties, or as the case may be) as may then be there,
to testify what he shall know concerning the said charge so
made against the said A. B. as aforesaid.

Given under my Hand and Seal, this day of
in the year of our Lord , at , in the
(County, or as the case may be) aforesaid.

J. S. [L. S.]

(L 4.—See Section VIII.)

WARRANT OF COMMITMENT OF A WITNESS FOR REFUSING TO BE SWORN,
OR TO GIVE EVIDENCE.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be) of

To all or any of the Constables or other Peace Officers in the
(County or United Counties, or as the case may be) of
and to the Keeper of the Common Gaol at , in the
said [County or United Counties or as the case may be) of

WHEREAS A. B. was lately charged before
(one) of Her Majesty's Justices of the Peace in and for the said
(County or United Counties, or as the case may be) of
for that (&c. as in the Summons); And it having been made to
appear to (me) upon oath that E. F. of
was likely to give material evidence for the prosecution, (I) duly
issued (my) Summons to the said E. F. requiring him to be and
appear before me on , at , or
before such other Justice or Justices of the Peace for the same
(County

(County
there, to
so made
now app
tue of W
required
hath nov
doth nov
ises whic
following
without
therefore
or any or
to the Co
in the [C
Keeper th
command
ceive the
and him t
said conte
amined, a
so doing,
Given u
in the yea
aforesaid.

PROVINCE
(County or
or as the co
THE EXA
F. of

in the (Con
dersigned,
said (Count
presence an
(me) for th
[&c describ
This Dep
stating the o
the words he
it.)
And this
[&c.]

INDICTABLE OFFENCES (O. W.) ACT.

(County or United Counties, or as the case may be) as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; And the said E. F. now appearing before (me) (or being brought before (me) by virtue of Warrant in that behalf, to testify as aforesaid,) and being required to make oath or affirmation as a witness in that behalf, hath now refused so to do, (or being duly sworn as a witness doth now refuse to answer certain questions concerning the premises which are now here put to him, and more particularly the following)

without offering any just excuse for such refusal; These are therefore to command you, the said Constables, Peace Officers, or any one of you, to take the said E. F. and him safely convey to the Common Gaol at in the [County &c.] aforesaid, and there to deliver him to the Keeper thereof, together with this Precept; And (I) do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, and him there safely keep for the space of _____ days, for his said contempt, unless he shall in the meantime consent to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient Warrant.

Given under (my) Hand and Seal, this _____ day of _____, in the year of our Lord _____, at _____, in the (County &c.,) aforesaid.

J. S. [L. s.]

(M.—See Section IX.)

DEPOSITIONS OF WITNESSES.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

THE EXAMINATION of C. W. of _____, (farmer,) and E. F. of _____ (laborer), taken on [oath] this _____ day of _____, in the year of our Lord _____, at _____,

in the (County, or as the case may be) aforesaid, before the undersigned, (one) of Her Majesty's Justices of the Peace for the said (County or United Counties or as the case may be), in the presence and hearing of A. B. who is charged this day before (me) for that he, the said A. B. _____ at _____ [&c. describing the offence as in a Warrant of Commitment.]

This Deponent, C. D. upon his (oath) saith as follows: (&c. stating the depositions of the the witness as nearly as possible in the words he uses. When his deposition is completed, let him sign it.)

And this Deponent, E. F. upon his [oath] saith as follows: [&c.]

The above depositions of C. D. and E. F. were taken and
[sworn] before me, at _____ on the day and year first
above mentioned.

J. S.

[N.—See Section X.]

STATEMENT OF THE ACCUSED.

PROVINCE OF CANADA, }
[County or United Counties, }
or as the case may be] of }

A. B. stands charged before the undersigned, [one] of Her Majesty's Justices of the Peace in and for the [County or United Counties, or as the case may be] aforesaid, this day of _____, in the year of our Lord _____, for that the said A. B., on _____, at _____, [&c. as in the caption of the depositions;] And the said charge being read to the said A. B., and the witnesses for the prosecution C. D. and E. F. being severally examined in his presence, the said A. B. is now addressed by me as follows: "Having heard the evidence, do you wish to say any thing in answer to the charge? You are not obliged to say any thing, unless you desire to do so; but whatever you say will be taken down in writing, and may be given in evidence against you at your trial." Whereupon the said A. B. saith as follows: (*here state whatever the prisoner may say, and in his very words as nearly as possible. Get him to sign it if he will.*) A. B.

Taken before me, at _____, the day and year first above mentioned.

J. S.

(O 1.—See Section XII.)

RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

PROVINCE OF CANADA, }
[County or United Counties, }
or as the case may be,] of }

BE IT REMEMBERED, That on the _____ day of _____, in the year of our Lord _____, C. D. of _____, in the _____ of _____, in the [Township] of _____, in the said [County] of _____, [farmer,] [or C. D. of No. _____, Street, _____, in the Town or City of _____, Surgeon, of which said house he is (tenant,) personally came before me, one of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of _____, and acknowledged himself to owe to our Sovereign Lady the Queen, the sum of _____ of

of good
and lev
use of o
the said
Taken
tioned, a

The c
is such,
J. S. Jus
the carti
shall app
Gaol De
Sessions
United C
and there
the offend
prosecute
or else to

[Same
"there p
"against t
"cute suc
"Jurors w
"them wh
"said Rec
"virtue."

(Same a
"And ther
"Indictmen
"for the of
"enquire of
"upon the
"True Bill,
"remain in

NOTICE

PROVINCE
(County or
or as the ca
TAKE NOT
sum of

INDICTABLE OFFENCES (C. W.) ACT.

of good and lawful Current Money of this Province, to be made and levied of his goods and chattels, lands and tenements, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said C. D. shall fail in the condition endorsed.

Taken and acknowledged the day and year first above mentioned, at
before me.

J. S.

CONDITION TO PROSECUTE.

The condition of the within (or above) written Recognizance is such, that whereas one A. B. was this day charged before me J. S. Justice of the Peace within mentioned, for that [*&c. as in the caption of the depositions;*] if therefore, he, the said C. D. shall appear at the next Court of Oyer and Terminer or General Gaol Delivery, [*or at the next Court of General or Quarter Sessions of the Peace,*] to be holden in and for the (County or United Counties, or as the case may be) of and there prefer or cause to be preferred a Bill of Indictment for the offence aforesaid, against the said A. B. and there also duly prosecute such indictment, then the said Recognizance to be void, or else to stand in full force and virtue.

CONDITION TO PROSECUTE AND GIVE EVIDENCE.

[*Same as the last form, to the asterisk,* and then thus :—*“And there prefer or cause to be preferred a Bill of Indictment against the said A. B. for the offence aforesaid, and duly prosecute such indictment, and give evidence thereon, as well to the Jurors who shall then enquire into the said offence, as also to them who shall pass upon the trial of the said A. B., then the said Recognizance to be void, or else to stand in full force and virtue.”

CONDITION TO GIVE EVIDENCE.

(*Same as the last form but one, to the asterisk,* and then thus :*)
“And there give such evidence as he knoweth upon a Bill of Indictment to be then and there preferred against the said A. B. for the offence aforesaid, as well to the Jurors who shall there enquire of the said offence, as also to the Jurors who shall pass upon the trial of the said A. B. if the said Bill shall be found a True Bill, then the said Recognizance to be void, otherwise to remain in full force and virtue.”

(O 2.—See Section XII.)

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE PROSECUTOR AND HIS WITNESS.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be,) of

TAKE NOTICE, That you C. D. of , are bound in the sum of to appear at the next Court of Oyer and Terminer

Terminer and General Gaol Delivery, [or at the next Court of General Quarter Sessions of the Peace, in and for the (County or United Counties, or as the case may be) of , to be holden at , in the said (County, &c.) and then and there [prosecute and] give evidence against A. B., and unless you then appear there, (prosecute) and give evidence accordingly, the Recognizance entered into by you will be forthwith levied on you.

Dated this day of one thousand
eight hundred and .

J. S.

P 1.—See Section XII.)

COMMITMENT OF A WITNESS FOR REFUSING TO ENTER INTO THE
RECOGNIZANCE.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of }

To all or any of the Constables or other Peace Officers in the said (County or &c.) of , and to the Keeper of the Common Gaol of the said (County or United Counties, or as the case may be) at , in the said [County, or as the case may be) of :

WHEREAS A. B. was lately charged before the undersigned, (or name of Justice of the Peace, (one) of Her Majesty's Justices of the Peace in and for the said (County, or &c.) of , for that (&c. as in the Summons to the Witness), and it having been made to appear to [me] upon oath that E. F., of , was likely to give material evidence for the prosecution, (I) duly issued (my) Summons to the said E. F., requiring him to be and appear before (me) on , at , or before such other Justice or Justices of the Peace as should then be there, to testify what he should know concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me (or being brought before (me) by virtue of a Warrant in that behalf to testify as aforesaid), hath been now examined before [me] touching the premises, but being by [me] required to enter into a Recognizance conditioned to give evidence against the said A. B., hath now refused so to do; These are therefore to command you the said Constables or Peace Officers, or any one of you, to take the said E. F. and him safely to convey to the Common Gaol at in the [County &c.] aforesaid, and there deliver him to the said Keeper thereof, together with this Precept; and I do hereby command you, the said Keeper of the said Common Gaol to receive the said E. F. into your custody in the said Common Gaol, there

there to
said A.
said E.
in the s
Justice
as the c
the next
or Gene
for the s

upon an
ferred a
to give
fence, if
Given

PROVIN
[County
or as the
To the K
in the p
WHERE
[instant],
fore (me)
having a
for the pr
nizance to
thereby c
you safely
the offence
to such R
sufficient
been comm
contrary t
not necess
your custo
said Keep
to the said
Given u

there to imprison and safely keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime the said E. F. shall duly enter into such Recognizance as aforesaid, in the sum of _____, before some one Justice of the Peace for the said (County or United Counties, or as the case may be,) conditioned in the usual form to appear at the next Court of [Oyer and Terminer, or General Gaol Delivery, or General Quarter Sessions of the Peace], to be holden in and for the said (County or United Counties, or as the case may be) of _____ and there to give evidence before the Grand Jury upon any Bill of Indictment which may then and there be preferred against the said A. B. for the offence aforesaid, and also to give evidence upon the trial of the said A. B. for the said offence, if a True Bill should be found against him for the same.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the [County &c.,] of _____ aforesaid.
J. S. [L. s.]

[P 2.—See Section XII.]

SUBSEQUENT ORDER TO DISCHARGE THE WITNESS.

PROVINCE OF CANADA, }
[County or United Counties, }
or as the case may be] of }
To the Keeper of the Common Gaol, at _____
in the [County] of _____ aforesaid
WHEREAS By (my) order dated the _____ day of _____ [instant], reciting that A. B. was lately before then charged before (me) for a certain offence therein mentioned, and that E. F. having appeared before (me), and being examined as a witness for the prosecution in that behalf, refused to enter into a Recognizance to give evidence against the said A. B., and I therefore thereby committed the said E. F. to your custody, and required you safely to keep him until after the trial of the said A. B. for the offence aforesaid, unless in the meantime he should enter into such Recognizance as aforesaid; And whereas for want of sufficient evidence against the said A. B., the said A. B. has not been committed or holden to bail for the said offence, but on the contrary thereof has been since discharged, and it is therefore not necessary that the said E. F. should be detained longer in your custody; These are therefore to order and direct you the said Keeper to discharge the said E. F. out of your custody, as to the said commitment, and suffer him to go at large.

Given under my Hand and Seal, this _____ day of _____, in the year of Our Lord _____, at _____, in the [County, &c.,] of _____ aforesaid.
J. S. [L. s.]
(Q 1.)

(Q 1.—See Section XIII.)

WARRANT REMANDING A PRISONER.

PROVINCE OF CANADA,
(County or United Counties, or }
as the case may be) of

To all or any of the Constables or other Peace Officers in the
said (County or United Counties, or as the case may be) of
, and to the Keeper of the (Common Gaol or Lock-up
House) at , in the said [County, &c.,] of :

WHEREAS A. B. was this day charged before the undersigned
[one] of Her Majesty's Justices of the Peace in and for the said
(County or United Counties, or as the case may be) of

, for that [&c. as in the Warrant to apprehend],
and it appears to [me] to be necessary to remand the said A. B.;
These are therefore to command you the said Constables or
other Peace Officers, or any of you, in Her Majesty's name;
forthwith to convey the said A. B. to the (Common Gaol or Lock-up
House), at , in the said (County, &c.,) and there
to deliver him to the Keeper thereof, together with this Precept;
and I hereby command you the said Keeper to receive the said
A. B. into your custody in the said (Common Gaol or Lock-up
House), and there safely keep him until the day of
, [instant], when I hereby command you to have

him at , at o'clock in the [fore] noon of
the same day before [me] or before some other Justice or Justices
of the Peace for the said [County or United Counties, or as the case
may be] as may then be there, to answer further to the said
charge, and to be further dealt with according to law, unless you
shall be otherwise ordered in the meantime.

Given under my Hand and Seal, this day of
, in the year of our Lord , at
in the [County, &c.,] of aforesaid.
J. S. [L. S.]

[Q 2.—See Section XIII.]

RECOGNIZANCE OF BAIL INSTEAD OF REMAND, ON AN ADJOURNMENT
OF EXAMINATION.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be,) of

BE IT REMEMBERED, That on the day of
in the year of our Lord , A. B. of ,
(laborer), L. M. of (grocer), and N. O. of ,
(butcher), personally came before me (one) of Her Majesty's
Justices of the Peace for the said [County or United Counties, or
as the case may be], and severally acknowledged themselves to
owe

owe to
to say :
said L.
good and
levied of
respectiv
and Succ
Taken
tioned, at

The co
that when

Warrant)
the prosec
day of
appear be
at
or Justices
of
answer [f
according
to stand in

NOTICE O

PROVINCE
(County or
as the case
TAKE NOT
sum of
of
of Her Maje
Counties, or

[fore] noon,
Justices of th
may be] as m
made agains
ing to law ;
the Recogniz
forthwith lev
Dated this
hundred and

INDICTABLE OFFENCES (C. W.) ACT.

owe to our Lady the Queen the several sums following, that is to say: the said A. B. the sum of _____, and the said L. M. and N. O. the sum of _____, each, of good and lawful current money of this Province, to be made and levied of their several goods and chattels, lands and tenements respectively, to the use of our said Lady the Queen, Her Heirs and Successors if he the said A. B. fail in the condition endorsed. Taken and acknowledged the day and year first above mentioned, at _____ before me.

J. S.

CONDITION.

The condition of the within written Recognizance is such, that whereas the within bounden A. B. was this day (*or, on last past*) charged before me for that (*&c. as in the Warrant*): And whereas the examination of the Witnesses for the prosecution in this behalf is adjourned until the day of _____ [*instant*]; If therefore the said A. B. shall appear before me on the said _____ day of _____, at _____ o'clock in the forenoon, or before such other Justice or Justices of the Peace for the said (*County or United Counties*) of _____ as the case may be as may then be there, to answer [*further*] to the said charge, and to be further dealt with according to law, then the said Recognizance to be void, or else to stand in full force and virtue.

(Q 3.—See Section. XIII.)

NOTICE OF RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS SURETIES.

PROVINCE OF CANADA,
(*County or United Counties, or as the case may be*) of _____

TAKE NOTICE, That you A. B. of _____, are bound in the sum of _____ and your Sureties L. M. and N. O. in the sum of _____, each, that you A. B. appear before me J. S. one of Her Majesty's Justices of the Peace for the (*County or United Counties, or as the case may be*) of _____, on _____ the _____ day of _____ [*instant*] at _____ o'clock in the [*fore*] noon, at _____, or before such other Justice or Justices of the same (*County or United Counties, or as the case may be*) as may be then there to answer [*further*] to the charge made against you by C. D., and to be further dealt with according to law; and unless you A. B. personally appear accordingly, the Recognizances entered into by yourself and Sureties will be forthwith levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____

J. S.
(Q 4.)

(Q 4.—See Section XIII.)

CERTIFICATE OF NON-APPEARANCE TO BE ENDORSED ON THE
RECOGNIZANCE.

I HEREBY CERTIFY, That the said A. B. hath not appeared at the time and place, in the above condition mentioned, but therein hath made default, by reason whereof the within written Recognizance is forfeited.

J. S.

(R 1.—See Section XIV.)

WARRANT TO CONVEY THE ACCUSED BEFORE A JUSTICE OF THE COUNTY
IN WHICH THE OFFENCE WAS COMMITTED.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

To all or any of the Constables, or other Peace Officers, in the said (County or United Counties, or as the case may be) of :

WHEREAS A. B. of (laborer), hath this day been charged before the undersigned [one] of Her Majesty's Justices of the Peace in and for the [County or United Counties, or as the case may be] of , for that [&c. as in the Warrant to apprehend]; And whereas [I] have taken the deposition of C. D. a witness examined by [me] in this behalf, but inasmuch as [I] am informed that the principal witnesses to prove the said offence against the said A. B. reside in the [County or United Counties, or as the case may be] of where the said offence is alleged to have been committed; These are therefore to command you, in Her Majesty's name, forthwith to take and convey the said A. B. to the said [County or United Counties, or as the case may be] of and there carry him before some Justice or Justices of the Peace in and for that [County or United Counties, or as the case may be,] and near unto the [Township of] where the offence is alleged to have been committed, to answer further to the said charge before him or them, and to be further dealt with according to law; [I] hereby further command you to deliver to the said Justice or Justices the information in this behalf, and also the said deposition of C. D. now given into your possession for that purpose, together with this Precept.

Given under my Hand and Seal, this
in the year of our Lord , at
[&c.] of aforesaid.

day of
, in the [County,

J. S. [L. S.]

RECEIVED

PROVINCE OF
[County or
or as the case may be]

I, J. P.

the [County or United Counties, or as the case may be]

Constable

or as the case may be

day of

by virtue of

of Her Majesty

United Counties, or as the case may be

produced

having [&c.]

the custody of

said charge

has also given

information

D. [and of]

he has also

J. S. subscribed

Dated this

in the said

PROVINCE OF

(County or

or as the case may be)

BE IT REMEMBERED

the year of

L. M. of

personally

ty's Justice

or as the case may be

to owe to

is to say: that

said L. M.

and lawful

ied of their

spectively,

Successors,

INDIOTABLE OFFENCES (C. W.) ACT.

[R 2.—See Section XIV.]

RECEIPT TO BE GIVEN TO THE CONSTABLE BY THE JUSTICE FOR THE
COUNTY IN WHICH THE OFFENCE WAS COMMITTED.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be] of

I, J. P. one of Her Majesty's Justices of the Peace, in and for
the [County &c.] of , hereby certify that W. T.,
Constable, or Peace Officer, of the [County or United Counties,
or as the case may be] of , has on this
day of , one thousand eight hundred and
by virtue of and in obedience to a Warrant of J. S. Esquire, one
of Her Majesty's Justices of the Peace in and for the [County or
United Counties, or as the case may be] of
produced before me, one A. B. charged before the said J. S. with
having [&c. stating shortly the offence,] and delivered him into
the custody of by my direction, to answer to the
said charge, and to be further dealt with according to law, and
has also delivered unto me the said Warrant, together with the
information [if any] in that behalf, and the deposition [s] of C.
D. [and of] in the said Warrant mentioned, and that
he has also proved to me upon oath, the hand-writing of the said
J. S. subscribed to the same.

Dated the day and year first above mentioned, at
in the said (County &c.) of

J. P.

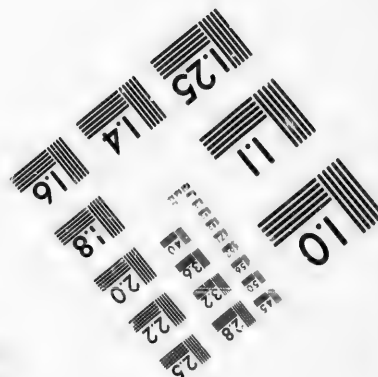
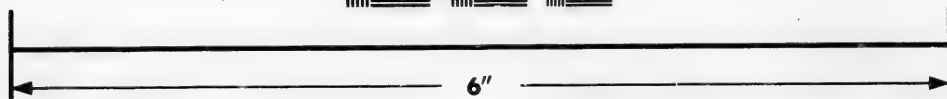
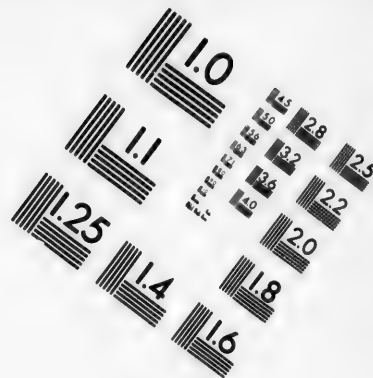
[S 1.—See Section XV.]

RECOGNIZANCE OF BAIL.

PROVINCE OF CANADA,
(County or United Counties, }
or as the case may be) of

BE IT REMEMBERED, That on the day of in
the year of our Lord , A. B. of (laborer,)
L. M. of (grocer) and N. O. of (butcher,)
personally came before (us) the undersigned, two of Her Majes-
ty's Justices of the Peace for the said (County or United Counties,
or as the case may be,) and severally acknowledged themselves
to owe to our Lady the Queen, the several sums following that
is to say: the said A. B. the sum of , and the
said L. M. and N. O. the sum of , each of good
and lawful current money of this Province, to be made and lev-
ied of their several goods and chattels, lands and tenements re-
spectively, to the use of our said Lady the Queen, Her Heirs and
Successors, if he, the said A. B. fail in the condition endorsed.





Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

1.5 2.8 2.5
1.6 3.2
1.8 3.6 2.2
2.0
1.8

1.1
0.1
0.1
0.1
0.1

Taken and acknowledged the day and year first above mentioned, at _____ before us.

J. S.
J. N.

CONDITION.

The condition of the within written Recognizance is such, that whereas the said A. B. was this day charged before [*us*,] the Justices within mentioned for that [*&c. as in the Warrant*]; If therefore the said A. B. will appear at the next Court of Oyer and Terminer or General Gaol Delivery [*or Court of General Quarter Sessions of the Peace*] to be holden in and for the [*County or United Counties, or as the case may be*] of _____, and there surrender himself into the custody of the Keeper of the [*Common Gaol or Lock-up House*] there, and plead to such Indictment as may be found against him by the Grand Jury, for and in respect to the charge aforesaid, and take his trial upon the same, and not depart the said Court without leave, then the said Recognizance to be void, or else to stand in full force and virtue.

[S 2.—See Section XV.]

NOTICE OF THE SAID RECOGNIZANCE TO BE GIVEN TO THE ACCUSED AND HIS BAIL.

TAKE NOTICE, That you A. B., of _____, are bound in the sum of _____, and your Sureties [*L. M. and N. O.*] in the sum _____, each, that you A. B. appear [*&c. as in the condition of the Recognizance*,] and not depart the said Court without leave; and unless you, the said A. B., personally appear and plead, and take your trial accordingly, the Recognizance entered into by you and your Sureties shall be forthwith levied on you and them.

Dated this _____ day of _____, one thousand eight hundred and _____.

J. S.

[S 3.—See Section XV. & XVI.]

WARRANT OF DELIVERANCE ON BAIL BEING GIVEN FOR A PRISONER ALREADY COMMITTED.

PROVINCE OF CANADA,
[*County or United Counties,* }
[*or as the case may be*] of }

To the Keeper of the Common Gaol of the [*County or United Counties, or as the case may be*] at _____, in the said (*County or United Counties, or as the case may be*) of _____:

WHEREAS A. B., late of _____, (*laborer*), hath before (*us*) _____ (two)

(two) of Her Majesty's Justices of the Peace in and for the said (County or United Counties, or as the case may be) of , entered into his own Recognizance, and found sufficient sureties for his appearance at the next Court of Oyer and Terminer or General Gaol Delivery (or Court of General Quarter Sessions of the Peace) to be holden in and for the (County or United Counties, or as the case may be) of , to answer our Sovereign Lady the Queen, for that (&c. as in the Commitment), for which he was taken and committed to your said Common Gaol; These are therefore to command you, in Her said Majesty's name, that if the said A. B. do remain in your custody in the said Common Gaol for the said cause, and for no other, you shall forthwith suffer him to go at large.

Given under our Hands and Seals, this day of , in the year of our Lord , at , in the (County, &c.) of aforesaid.

J. S. [L. s.]
J. N. [L. s.]

[T 1.—See Section XVII.]

WARRANT OF COMMITMENT.

PROVINCE OF CANADA,
[County or United Counties, }
or as the case may be] of }

To all or any of the Constables, or other Peace Officers, in the (County or United Counties, or as the case may be) of , and to the Keeper of the Common Gaol of the [County or United Counties, or as the case may be] at , in the said [County &c.] of :

WHEREAS A. B. was this day charged before (me) J. S. (one) of Her Majesty's Justices of the Peace in and for the said (County or United Counties or as the case may be) of , on the oath of C. D., of (farmer,) and others, for that, &c. [stating shortly the offence]; These are therefore to command you the said Constables or Peace Officers, or any of you, to take the said A. B. and him safely convey to the Common Gaol at aforesaid, and there deliver him to the Keeper thereof, together with this Precept; And I do hereby command you the said Keeper of the said Common Gaol to receive the said A. B. into your custody in the said Common Gaol, and there safely to keep him until he shall be thence delivered by due course of law.

Given under my Hand and Seal, this day of , in the year of our Lord , at , in the [County &c.,] of aforesaid.

J. S. [L. s.]
(T 2.)

(T 2.—See Section XVIII.)

GAOLER'S RECEIPT TO THE CONSTABLE FOR THE PRISONER, AND JUSTICES ORDER THEREON FOR THE PAYMENT OF THE CONSTABLE'S EXPENSE IN EXECUTING THE COMMITMENT.

I HEREBY CERTIFY, That I have received from W. T. Constable, of the (*County, &c.*) of , the body of A. B. together with a Warrant under the Hand and Seal of J. S., Esquire, one of Her Majesty's Justices of the Peace for the said [*County or United Counties or as the case may be,*] of , and that said A. B. was [*sober, or as the case may be*] at the time he was delivered into my custody.

P. K.

Keeper of the Common Gaol of the said [*County, &c.*]

at

To R. W. Esquire, Treasurer of the (*County or United Counties, or as the case may be,*) of :

WHEREAS W. T., Constable, of the (*County or United Counties or as the case may be,*) of , hath produced unto me, J. P., one of Her Majesty's Justices of the Peace in and for the said (*County or United Counties, or as the case may be*) of , the above receipt of P. K., Keeper of the Common Gaol at ; And whereas in pursuance of the Statute in such case made and provided, I have ascertained that the sum which ought to be paid to the said W. T. for arresting and conveying the said A. B. from , in the (*County of*) to the said Common Gaol is , and that the reasonable expenses of the said W. T. in returning will amount to the further sum of , making together the sum of ; These are therefore to order you, as such Treasurer for the said [*County or United Counties, or as the case may be*] of , to pay unto the said W. T. the said sum of , according to the form of the Statute in such case made and provided, for which payment this Order shall be your sufficient voucher and authority.

Given under my Hand, this day of ,
one thousand eight hundred and .

J. P.

Received the day of , one thousand
hundred and , of the Treasurer of the (*County, or
United Counties, or as the case may be*) of 'the sum
of , being the amount of the above Order.

£ s. d.

W. T.

JUS

AN A
V.

W
thereft
against
done b
respect
shall b
tion it
malicio
at the
pleaded
be non-

II. A
the Pea
or in w
injured
made o
may ma
and in t
of this A
the act
able and
Action s
Order un
either up
Courts o
action b
which sh
appear
by a Cor
Convictio
if such la
any such
informati
Summons

JUSTICES OF THE PEACE PROTECTION ACT,
(C. W.) 16 VICT. 1853.

CAP. CLXXX.

AN ACT TO PROTECT JUSTICES OF THE PEACE IN UPPER CANADA FROM
VEXATIOUS ACTIONS.

[Assented to, 14th June, 1853.]

WHEREAS it is expedient to protect Justices of the Peace in Upper Canada in the execution of their duty: Be it therefore enacted, &c., That every action hereafter to be brought against any Justice of the Peace in Upper Canada for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, shall be an action on the case as for a tort; and in the declaration it shall be expressly alleged that such act was done maliciously and without reasonable and probable cause; and if at the trial of any such Action, upon the general issue being pleaded, the Plaintiff shall fail to prove such allegation, he shall be non-suit or a verdict shall be given for the Defendant.

II. And be it enacted, That for any act done by a Justice of the Peace in a matter of which by law he has not jurisdiction, or in which he shall have exceeded his jurisdiction, any person injured thereby, or by any act done under any Conviction or Order made or Warrant issued by such Justice in any such matter, may maintain an action against such Justice in the same form and in the same case as he might have done before the passing of this Act, without making any allegation in his declaration that the act complained of was done maliciously and without reasonable and probable cause: Provided nevertheless, that no such Action shall be brought for anything done under such Conviction or Order until after such Conviction or Order shall have been quashed, either upon appeal or upon application to one of the Superior Courts of Common Law for Upper Canada; nor shall any such action be brought for any thing done under any such Warrant which shall have been issued by such Justice to procure the appearance of such party, and which shall have been followed by a Conviction or Order in the same matter, until after such Conviction or Order shall have been so quashed as aforesaid; or if such last mentioned Warrant shall not have been followed by any such Conviction or Order, or if it be a Warrant upon an information for an alleged indictable offence, nevertheless if a Summons were issued previously to such Warrant, and such

Summons were served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of such Summons, in such case no such Action shall be maintained against such Justice for any thing done under such Warrant.

III. And be it enacted, That where a Conviction or Order shall be made by one or more Justice or Justices of the Peace, and a Warrant of distress or of commitment shall be granted thereon by some other Justice of the Peace *bonâ fide* and without collusion, no Action shall be brought against the Justice who so granted such Warrant by reason of any defect in such Conviction or Order, or for any want of jurisdiction in the Justice or Justices who made the same, but the Action (if any) shall be brought against the Justice or Justices who made such Conviction or Order.

IV. And whereas it would conduce to the advancement of justice, and render more effective and certain the performance of the duties of Justices, and give them protection in the performance of the same, if some simple means, not attended with much expense, were devised by which the legality of any act to be done by such Justice might be considered and adjudged by a Court of competent jurisdiction, and such Justice enabled and directed to perform it without risk or any Action or other proceeding being brought or had against him: Be it therefore enacted, That in all cases where a Justice or Justices of the Peace shall refuse to do any act relating to the duties of his or their Office as such Justice or Justices, it shall be lawful for the party requiring such act to be done to apply to either of the Superior Courts of Common Law in Upper Canada, or to the Judge of the County Court of the County or United Counties in which such Justice or Justices may reside, upon an affidavit of the facts, for a rule calling upon such Justice or Justices, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause shall not be shown against it, the said Court may make the same absolute, with or without or upon payment of costs, as to them shall seem meet; and the said Justice or Justices upon being served with such rule absolute shall obey the same, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against such Justice or Justices, for having obeyed such rule and done such act so thereby required as aforesaid.

V. And be it enacted, That in all cases where a Warrant of Distress or Warrant of Commitment shall be granted by a Justice of the Peace upon any Conviction or Order which, either before or after the granting of such Warrant, shall have been or shall be confirmed upon appeal, no Action shall be brought against such Justice who so granted such Warrant, for any thing which

may
such

VI
is en
cums
for a
on ap
set as
as to

VII
any J
tion o
endar
comm

VII
mence
Month
shall h
of abo
his At
and th
be clea
be end
ing to
of the
by suc

IX.
shall b
mitted,
must b
compla
Defend
and to
in evid
vided a
or Divi
done b
object t
a notic
Agent,
that he
for such
in such
not be r
such Ju
hereby

may have been done under the same, by reason of any defect in such Conviction or Order.

VI. And be it enacted, That in all cases where by this Act it is enacted that no action shall be brought under particular circumstances, if any such Action shall be brought, it shall be lawful for a Judge of the Court in which the same shall be brought, upon application of the Defendant, and upon affidavit of facts, to set aside the proceedings in such Action, with or without costs, as to him shall seem meet.

VII. And be it enacted, That no Action shall be brought against any Justice of the Peace for any thing done by him in the execution of his Office, unless the same be commenced within Six Calendar Months next after the act complained of shall have been committed.

VIII. And be it enacted, That no such Action shall be commenced against any such Justice of the Peace until one Calendar Month at least after a Notice in Writing of such intended Action shall have been delivered to him, or left for him at his usual place of abode, by the party intending to commence such Action, or by his Attorney or Agent, in which said notice the cause of Action, and the Court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode or of business of the said Attorney or Agent, if such notice have been served by such Attorney or Agent.

IX. And be it enacted, That in every such Action the venue shall be laid in the County where the act complained of was committed, or in Actions in County or Division Courts the Action must be brought in the County or Division within which the act complained of was committed or the Defendant resides, and the Defendant shall be allowed to plead the General Issue therein, and to give any special matter of defence, excuse or justification in evidence under such plea, at the trial of such Action: Provided always, that no Action shall be brought in any such County or Division Court against a Justice of the Peace for any thing done by him in the execution of his office if such Justice shall object thereto; and if within Six Days after being served with a notice of any such action, such Justice or his Attorney or Agent, shall give a written notice to the Plaintiff in such Action that he objects to being sued in such County or Division Court for such cause of action, no proceedings afterwards shall be had in such County or Division Court in any such Action, but it shall not be necessary to give another notice of Action in order to sue such Justice in any other Court; Provided secondly, and it is hereby declared and enacted, that the several County Courts in

Upper Canada shall have Jurisdiction and shall hold plea in all Suits or Actions to be brought against Justices of the Peace for any thing done or pretended to be done by them in the execution of their office, when the damages claimed shall not exceed the sum of thirty pounds.

X. And be it enacted, That in every such case after notice of Action shall be so given as aforesaid, and before such Action shall be commenced, such Justice to whom such notice shall be given may tender to the party complaining, or to his Attorney or Agent, such sum of money as he may think fit as amends for the injury complained of in such notice; and after such action shall have been commenced, and at any time before issue joined therein, such Defendant, if he have not made such tender, or in addition to such tender, shall be at liberty to pay into Court such sum of money as he may think fit, and which said tender and payment of money into Court, or either of them, may afterwards be given in evidence by the Defendant at the trial under the General issue aforesaid; and if the Jury at the trial shall be of opinion that the Plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, then they shall give a verdict for the Defendant, and the Plaintiff shall not be at liberty to elect to be non-suit, and the sum of money, if any, so paid into Court, or so much thereof as shall be sufficient to pay or satisfy the Defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue, if any, shall be paid to the Plaintiff; or if, where money is so paid into Court in any such action, the Plaintiff shall elect to accept the same in satisfaction of his damages in the said Action, he may obtain from any Judge of the Court in which such action shall be brought, an order that such money shall be paid out of Court to him and that the Defendant shall pay him his costs to be taxed, and thereupon the said Action shall be determined, and such order shall be a bar to any other Action for the same cause.

XI. And be it enacted, That if at the trial of any such Action the Plaintiff shall not prove that such Action was brought within the time hereinbefore limited in that behalf, or that such notice as aforesaid was given one Calendar Month before such action was commenced, or if he shall not prove the cause of Action stated in such notice, or if he shall not prove that such cause of Action arose in the County or place laid as venue in the margin of the declaration, or (when such Plaintiff shall sue in the County or Division Court) within the County or United Counties for which such Court is holden, then and in every such case such Plaintiff shall be non-suit, or the Jury shall give a verdict for the Defendant.

XII. And be it enacted, That in all cases where the Plaintiff in any such Action shall be entitled to recover, and he shall

prove
under
to rec
Convic
such
of suc
sum o
costs o
guilty
liable b
respect
punish
was so
ordered

XIII.
Action
judgme
entitled
passed;
the Sum
that Cou
without
a verdict
to pass
of suit,
every ac
by him i
judgmen
to his ful
Client.

XIV.
take effe
thousand

XV. A
shall so
Statutes
shall be
regards U
the Parlia
thereof he
Reign, in
affording
of public
are incons
so much o
and also e
same or a

prove the levying or payment of any penalty or sum of money under any Conviction or Order as parcel of the damages he seeks to recover, or if he prove that he was imprisoned under such Conviction or Order, and shall seek to recover damages for any such imprisonment, he shall not be entitled to recover the amount of such penalty or sum so levied or paid, or any sum beyond the sum of two pence as damages for such imprisonment, or any costs of suit whatsoever, if it shall be proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and (with respect to such imprisonment) that he had undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay.

XIII. And be it enacted, That if the Plaintiff in any such Action shall recover a verdict, or the Defendant shall allow judgment to pass against him by default, such Plaintiff shall be entitled to costs in such manner as if this Act had not been passed; or if in such case it be stated in the declaration, or in the Summons and particulars in the Division Court if he sue in that Court, that the act complained of was done maliciously and without reasonable and probable cause, the Plaintiff, if he recover a verdict for any damages, or if the Defendant allow judgment to pass against him by default, shall be entitled to his full costs of suit, to be taxed as between an Attorney and Client; and in every action against a Justice of the Peace for any thing done by him in the execution of his Office, the Defendant, if he obtain judgment upon verdict or otherwise, shall in all cases be entitled to his full costs in that behalf, to be taxed as between Attorney and Client.

XIV. And be it enacted, That this Act shall commence and take effect on the first day of July, in the year of our Lord one thousand eight hundred and fifty-three.

XV. And be it enacted, That from and after the time this Act shall so commence and take effect as aforesaid, the following Statutes so far as relates to Actions against Justices of the Peace shall be deemed and taken to be repealed in so far as regards Upper Canada, that is to say: so much of an Act of the Parliament of this Province made and passed in the session thereof held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to amend and consolidate the Laws affording protection to Magistrates and others in the performance of public duties*, and all other Act or Acts or parts of Acts which are inconsistent with the provisions of this Act; save and except so much of the said Acts as repeal any other Acts or parts of Acts, and also except as to proceedings then pending, to which the same or any of them may be applicable.

XVI. And be it enacted, That this Act shall apply for the protection of all persons for any thing done in the execution of their Office, in all cases in which, by the provisions of any Act or Acts of Parliament, the several Statutes or parts of Statutes by this Act repealed would have been applicable if this Act had not been passed.

XVII. And be it enacted, That this Act shall apply to Upper Canada only; and that the word "County" in this Act shall include Unions of Counties for judicial purposes.

STEAMBOATS TO CARRY LIFE PRESERVERS.

CAP. CLXVII.

AN ACT TO AMEND THE ACT, INTITULED, *AN ACT TO AMEND AN ACT, INTITULED, "AN ACT TO COMPEL VESSELS TO CARRY A LIGHT "DURING THE NIGHT, AND TO MAKE SUNDRY PROVISIONS TO REGU- "LATE THE NAVIGATION OF THE WATERS OF THIS PROVINCE."*

[Assented to, 14th June, 1853.]

IN amendment of the Act passed in the session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled: *An Act to amend an Act, intituled, "An Act to compel Vessels "to carry a Light during the night, and to make sundry provisions "to regulate the Navigation of the Waters of this Province:"* Be it enacted, &c., That at least one of the Boats provided for and carried with every Steamboat engaged in the transportation of freight and passengers in pursuance of the ninth section of the said Act hereinbefore first cited, shall be a life-boat, made of metal, fire-proof, and in all respects a good, substantial, safe sea-boat, capable of sustaining, inside and outside fifty persons, with life-lines attached to the gunwale at suitable distances, and that all of such boats shall be well furnished with oars and other necessary apparatus, and shall be good, substantial and safe boats, and in good condition at all times for service.

II. And be it enacted, That it shall also be the duty of the Owner and Master of every such Steamboat as aforesaid, to provide and carry with the said Steamboat upon each and every voyage, a good life-preserver, made of suitable material, or a float well adapted to the purpose, for each and every passenger, which life preservers and floats shall always be kept in convenient and accessible places in such Steamboats, and in readiness

for the
bucket

III.
passen
sufficie
to the
life.

IV.
have fo
ry, one

V. A
nor in
Order
regulat
that ma
this Pro
thereof,
no such
after it
of at le
Gazette.

VI. A
the sam
provisio
said, as
the Act
traventic
one voya
such Oro
master t
currency

EVERY
legal exe
will and
Wills
of every
or Distric
where th
any-one t
that end,
illness, ac

RESPECTING WILLS.

for the use of the passengers ; and also at least twenty-five fire-buckets and five axes.

III. And be it enacted, That every such Steamboat carrying passengers on the main or lower deck, shall be provided with sufficient means convenient to such passengers for their escape to the upper deck, in case of fire or other accident endangering life.

IV. And be it enacted, That the foregoing provisions shall have force and effect, upon, from and after the first day of January, one thousand eight hundred and fifty-four, and not sooner.

V. And be it enacted, That it shall be lawful for the Governor in Council, at any time after the passing of this Act, by an Order or Orders in Council, from time to time to prescribe and regulate the number of Cabin or Steerage or other passengers, that may be carried by any Steamboat, or class of Steamboats in this Province, either in proportion to the dimensions or tonnage, thereof, or both, or otherwise howsoever : Provided always, that no such order in Council shall have any force or effect, until after it shall have been published at least twice, at an interval of at least six days between each publication, in the *Canada Gazette*.

VI. And be it enacted, That the same penalty shall be and the same is hereby attached to the contravention of any of the provisions of this Act, or of any such Order in Council as aforesaid, as is contained in and enacted by the said ninth section of the Act hereinbefore first cited, that is to say, that for every contravention in respect of any Steamer in this Province, on any one voyage or trip thereof of any provision in this Act or in any such Order in Council applicable to such Steamer, the owner or master thereof shall forfeit and pay the sum of Fifty Pounds, currency.

RESPECTING WILLS.

EVERY PERSON, of sound intellect and of age, having the legal exercise of their rights, may devise or bequeath by last will and testament, their Estates, both Real and Personal.

Wills should be Registered as soon as possible after the death of every respective Devisor, Testator or Testatrix, in the County or District, within which the property is situated, so as to be where they would always remain subject to the inspection of any-one that might be interested to know their import ; and to that end, it would be well that the testator should, in his last illness, acknowledge in the presence of a Justice of the Peace, that

that the Will in question is his deliberate act and final determination, and that he does, in the presence of said Magistrate, confirm it as his last Will and testament. It is very important that Wills should be so written, as to admit of no possible misconstruction: They must be, in every respect, according to law, or they will be in a manner, if not wholly, useless.

Every last Will and Testament of Real or Personal property, must be executed and attested, in the following manner: The testator's name must be subscribed by the testator, at the end of the Will; accompanied by a seal, executed in the presence of two witnesses. Such subscription must be made by the testator in the presence of each of the attesting witnesses, or by him acknowledged to have been so made to each of the attesting witnesses; at the request of the testator, and in the presence of each other. The testator must declare the instrument so subscribed, at the time of acknowledging the same, to be his last Will and Testament.

A codacil is a supplement to a Will, and must be attested in the same manner as the Will.

To Disinherit an Heir at Law.

AN HEIR, At law cannot be disinherited by a will, unless by express terms in the Will, showing such an intention on the part of the testator. It is, therefore, generally requisite to name in the Will every person or family, who would be lawfully entitled to share in the inheritance, if there were no Will. And this may be done by naming such individual or individuals as the testator intends to disinherit, and declaring that he shall give them nothing, assigning the reasons for such decision, or by giving to each of such persons, five or ten shilling, or any other nominal small sum.

This, however, is a ceremony which is not of very frequent occurrence.

A WILL OF REAL AND PERSONAL ESTATE.

THIS INSTRUMENT, WITNESSETH: That I, William Stearnley, of the City and District of Montreal, of the Province of Canada, being of sound and disposing mind, memory, and understanding, do make, publish, and declare this to be my last will and testament; hereby revoking and making null and void all former last wills and testaments, and writings in the nature of last wills and testaments by me heretofore made.

My WILL is FIRST; that my funeral charges and just debts shall be paid by my executor hereinafter named.

The residue of my estate and property which shall not be required for the payment of my just debts, funeral charges, and

the ex
admini
as fol
Susan
the St.
dred p
deceas
to her
ther us
S. S., r
of my
of Mon
for and
ing-hou
ter, he
Amelia
to be p
months
twenty-
may be
her heir
use, and
I Give
of St. J
five pou
ed, with
same to
and ass
I Give
estate, r
possesse
decease,
the same
assigns,
nominate
of this n
In Tes
hureunto
of June,
and fifty

Signed
will and
Henry J
subscrib
each othe
Lewis Ri
Thomas
or District

RESPECTING WILLS.

the expenses attending the execution of this my will, and the administration of my estate, I Give, devise, and dispose thereof as follows, to Wit:—I give and devise to my beloved wife, Susan Sharp Stearnley, all my household furniture, my pew in the St. George's Church, and the sum of one thousand five hundred pounds, in cash, to be paid her in four months after my decease, by my executor hereinafter named, to have and to hold to her and her heirs, executors, and administrators, to her and ther use and behoof forever. I do also bequeath to the said S. S., my beloved wife, the entire, exclusive, and undivided use of my dwelling-house, situated in Richmond Square in the City of Montreal, where I now reside, to have and to hold the same for and during her natural life, then the proceeds, of said dwelling-house are to be equally divided between my son and daughter, hereinafter named:—I Give and bequeath to my daughter Amelia Stearnley, the sum of seven hundred and fifty pounds, to be paid to her by my executor hereinafter named, within six months after my decease, (or when she becomes of the age of twenty-one years, *this proviso is necessary if she or he as the fact may be is not of age.*) To HAVE AND TO HOLD the same to her, and her heirs, executors, administrators and assigns, to her and their use, and behoof forever.

I Give and bequeath to James Hale, son of my friend L. Hale, of St. Johns, C. E., in token of my friendship for him, seventy five pounds, to be paid to him by my executor hereinafter named, within one year after my decease, to have and to hold the same to him the said J. H., his heirs, executors, administrators and assigns, to his and their use forever.

I Give, devise, and bequeath all the rest and residue of my estate, real, personal, and mixed, of which I shall be seized and possessed, or to which I shall be entitled at the time of my decease, to my only son Harrison Stearnley, to have and to hold the same to him, and to his heirs, executors, administrators and assigns, to his and their use, and behoof forever. And I do nominate and appoint my said Son, H. S. to be the sole executor, of this my last will and testament.

IN TESTIMONY WHEREOF, I, the said William Stearnley, have hereunto subscribed my name and affixed my seal, this ninth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

WILLIAM STEARNLEY. [Seal.]

Signed, Sealed and Declared, by the said W. S. to be his last will and testament, in presence of Lewis Richards and Thomas Henry Jones, who at his request, and in his presence, have subscribed their names as witnesses hereto, in the presence of each other.

Lewis Richards, } both of the of in the County
Thomas H. Jones, }
or District of (or as the case may be).

ANOTHER WILL OF REAL AND PERSONAL ESTATE.

I, HORACE WILLIAMS, of the City of Toronto, in the County of York, of the Province of Canada, late merchant, of the said City, of the age of years, and being of sound mind and memory, do make, publish and declare, this my last will and testament, in manner following, to Wit:

MY WILL IS: That my funeral charges and just debts shall be paid by my executrix hereinafter named. The residue of my estate and property which shall not be required for the payment of my just debts, funeral charges, and the expenses attending the execution of this my will, and the administration of my estate, I Give, devise, and dispose thereof as follows, that is to say:

FIRST, I Give and Bequeath to my Wife Adelaide Williams, the sum of pounds, currency, to be received and accepted by her in lieu of Dower; to my sons, Charles Williams and Horace Williams, Junr., each to receive the sum of pounds, currency; to my daughter, Sarah Williams, the sum of pounds, currency; And to my daughter-in-law, Lucy Williams, widow of my eldest son, Oliver Williams, deceased, the sum of pounds, currency; Which said several legacies or sums of money; I direct and order to be paid to the said respective legatees, within one year after my decease.

SECOND, I Give and Devise to my sons, Charles and Horace Williams, aforesaid, their heirs and assigns, all that certain parcel or tract of land, situate, lying and being, in the &c., (*here give full description of the premises*;) Together with all the hereditaments and appurtenances thereunto belonging or in any-wise appertaining: TO HAVE AND TO HOLD the premises above described to the said Charles and Horace Williams, their heirs and assigns, forever.

THIRD, I Give and Devise all the rest residue and remainder of my real estate, (*here give description*) to my said daughter, Sarah Williams, and my said daughter-in-law, Lucy Williams, to be divided equally between them share and share alike.

AND lastly, I Give and Bequeath all the rest, residue and remainder, of my personal estate, goods and chattels, of every nature or kind soever, to my said wife, Adelaide Williams, whom I hereby appoint sole executrix, of this my last will and testament; hereby revoking all former wills by me made.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this day of , in the year of our Lord one thousand eight hundred and fifty-

HORACE WILLIAMS. [Seal.]

The above instrument, consisting of one sheet, was, at the date thereof signed, sealed, published and declared, by the said Horace Williams, as and for his last will and testament, in presence

presen
the pr
testin
SAMUE
JAMES

Various

In V
last wi
at the
sevent
eight h

Or th
have, t
sheets
the first
sheet I

Or th
have, to
of paper
seal, to
of
said four
contents

Signed
Dill, as
who, in
ed our n
JOHN W
CHARLES
Or th
ence of t
witness
other her
of the s
time, dec
testament
WILLIAM
STEPHEN I
DAVID ST

RESPECTING WILLS.

presence of us, who, at his request and in his presence, and in the presence of each other; have subscribed our names as attesting witnesses thereto.

SAMUEL LANG, of the City of Toronto, in the County of York.
JAMES HOLLAND, of the same place.

Various Conclusions to Wills or Codicils, the necessary Words being Changed.

IN WITNESS WHEREOF, I, the said Thomas Dill, have to this my last will and testament, contained on two sheets of paper, and at the close of every sheet thereof, set my hand and seal, this seventeenth day of June, in the year of our Lord one thousand eight hundred and fifty-four.

THOMAS DILL. [Seal.]

Or thus:—IN TESTIMONY WHEREOF, I, the said Thomas Dill have, to this my last will and testament, contained on three sheets of paper, set my hand and seal, in manner following: to the first two sheets I have subscribed my name, and to the last sheet I have subscribed my name and affixed my seal, &c.

THOMAS DILL. [Seal.]

Or thus:—IN TESTIMONY WHEREOF, I, the said Thomas Dill, have, to this my last will and testament, contained on four sheets of paper, subscribed my name to each of them, and affixed my seal, to my signature to the fourth sheet, on this day of ; and in my presence, and by my direction, the said four sheets are now annexed together, and I declare their contents to be my last will and testament, &c.

Attestations of Wills.

Signed, Sealed, published and declared, by the said Thomas Dill, as and for his last will and testament, in presence of us who, in his presence, and at his request, have hereunto subscribed our names as Witnesses in the presence of each other.

JOHN WINCHESTER, residing at , in the County of .
CHARLES PRATT, residing at , in the County of .

Or thus:—Signed, Sealed, published and declared, in the presence of three several persons, whose names hereunto appear as witnesses; And we the undersigned did in the presence of each other hereunto subscribe our names as witnesses, in the presence of the said Thomas Dill, and at his request, he, at the same time, declaring the foregoing instrument to be his last will and testament.

WILLIAM TOMPKINS, residing at , in the County of .
STEPHEN BROWN, residing at , in the County of .
DAVID STEARNS, residing at , in the County of .

A Codicil Annexed to, or Endorsed on the Back of a Will.

I, Thomas Dill, named as the testator in the Will to which this is annexed, (or within contained,) do hereby make this present codicil, which I do order and direct, shall be taken as a part of my annexed (or within) last will and testament, and which Will, I, in all respects, excepting wherein it is altered or changed by this codicil, do hereby republish and confirm. I Give and bequeath to my grandson, Oliver Jones, the child of my daughter, Eveline B., who inter-married with James Bond, the sum of _____ pounds.

And whereas, my son, Horatio Dill, since my making my last will and testament, has died, leaving a widow and five children, (two boys and three girls) ; the boys named as follows: Alonzo Dill, and Henry Dill; the girls named, Mary Dill, Sarah D., and Helen D., I do hereby (here insert all the changes, revocations, or additions, which the testator may wish to make.)

IN TESTIMONY WHEREOF, &c.

OATH TO BE TAKEN, WHEN APPOINTED TO ANY PUBLIC OFFICE IN THIS PROVINCE.

OATH.

I, David Henderson, do sincerely promise and swear, that I will be faithful and bear true allegiance to HER MOST GRACIOUS MAJESTY QUEEN VICTORIA, our reigning Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependent on and belonging to the said Kingdom; and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatsoever which shall be made against Her Person, Crown and Dignity; and that I will do my utmost endeavor to disclose and make known to Her Majesty, Her Heirs and Successors, all treasons and traitorous conspiracies and attempts which I shall know to be made against Her or any of them; and all this I do swear without any equivocation, mental evasion or secret reservation, and renouncing all pardons and dispensations from any person or power whatsoever to the contrary. So help me God.

Parliamentary Acts of Canada.

BANKS AND BANKING.

C A P. X X I.

AN ACT TO ESTABLISH FREEDOM OF BANKING IN THIS PROVINCE, AND
FOR OTHER PURPOSES RELATIVE TO BANKS AND BANKING.

[Assented to 10th August, 1850.]

WHEREAS it is expedient to provide, by one general law, for the establishment of freedom of Banking in this Province, under such regulations as shall effectively protect the holders of the Notes of Banks, and shall provide, as far as may be practicable, for the safety of all those dealing with them, and for that purpose to repeal the Ordinance and Act hereinafter mentioned, and to make other provision instead thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Ordinance of the Governor and Special Council for Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Ordinance to regulate Private Banking, and the Circulation of the Notes of Private Bankers*, and the Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to protect the public against injury from Private Banks*, and all other Acts, Ordinances, or provisions of law in force either in Upper or in Lower Canada, inconsistent with the provisions

Preamble.

Ord: L. C. 2 V.
(3) c. 57—and

Act U. C. 7 W.
4, c. 13, repealed.

of this Act, shall be and are hereby repealed, except only as regards any penalty incurred under either of them before this Act shall come into effect, with regard to which they shall remain in full force.

What parties
only may make
and issue Bank
Notes.

II. And be it enacted, That it shall not be lawful for any person or association of persons, body corporate or politic, or party whatsoever, except only Banks now incorporated by Royal Charter or by Act of the Legislature of this Province or of Lower Canada or of Upper Canada, and thereunto expressly authorized, or such as shall be thereunto authorized under the provisions of this Act, to make, issue, sign, draw, indorse, guarantee, or become parties to (any of which Acts shall be making and issuing within the meaning

What shall be
Bank Notes.

of this Act,) any Bill, Note, *Bon*, Check, or promise in writing or undertaking, for the payment of money or securities for money, or other evidence of debt of any description or form, in the nature of a Bank Note or Bank Bill, or intended to pass as money, (and such intention shall be presumed in any case, if the same be made for the payment of any sum less than five pounds, and be payable either in form or in fact to the bearer thereof or on demand, or at less than thirty days thereafter, or be overdue, or be in any way calculated or intended for circulation, or as a substitute for money,) all which shall be Bank Notes within the meaning of this Act, and those with regard to which the provisions of this Act shall be contravened, shall be "unlawful Bank Notes" within the meaning of this Act, and the word "Notes," when hereinafter used, shall mean Bank Notes, unless such meaning be inconsistent with the context; Provided that any Check upon any

Provido: as to
Checks.

Chartered or other Bank which may legally issue Bank Notes, paid by the maker thereof directly to his immediate creditor, shall not be deemed a Bank Note, if it be not intended

Provido: as to
certain Bills and
Notes.

to pass or circulate as such: Provided always, that nothing in this Section contained shall extend to any Promissory Note, Bill of Exchange, Check, Note, *Bon*, or other undertaking for the payment of money paid or delivered by the maker thereof to his immediate creditor, and

Provido: as to
certain Banks or
companies.

not intended to pass into circulation as money: Provided also, that this Section shall not, during twelve months next after the passing thereof, apply to any Banks or Company not hereinbefore excepted and authorized by Legislative enactment to issue Bank Notes.

No Bank Note to
be for less than
5s.

III. And be it enacted, That every Bank Note issued in this Province, and being for a less sum than Five Shillings, or made payable otherwise than on demand in current coin of this Province, and at some certain place within this Province, shall be an unlawful Bank Note, although issued by a party authorized to issue Bank Notes.

IV. And be it enacted, That for each and every unlawful Bank Note made or issued, circulated or passed, or attempted to be circulated or passed in contravention of this Act, the party issuing, circulating or passing, or attempting to circulate or pass the same, shall incur a penalty of One Hundred Pounds, to be recovered with costs by action in any Court having Civil Jurisdiction to the amount, by any party who will sue for the same as well for himself as for the Queen; and one moiety of such penalty shall belong to the party suing, and the other half to Her Majesty.

Penalty for issuing or circulating, &c., unlawful Bank Notes.

V. And be it enacted, That no Bank incorporated or having its Chief Office or seat in any country out of Her Majesty's Dominions, shall open or keep any office or place of discount or deposit, or for the issue, circulation, or redemption of its Bank Notes within this Province, under a penalty of One Hundred Pounds for each day on which such office or place shall be opened or kept open, to be recovered and applied in the same manner as the penalties imposed by the next preceding Section.

Foreign Banks not to keep offices in the Province.

VI. And be it enacted, That all unlawful Bank Notes shall be absolutely null and void; and any mortgage, hypothec, deed, bond, note, bill, or other security, promise or undertaking, which shall be taken or given either directly or indirectly, mediately or immediately, for securing any loan or advance made either wholly or in part in unlawful Bank Notes, shall be absolutely null and void, as shall also any receipt or discharge given for any sum of money if the whole or any part of such sum shall have been paid in unlawful Bank Notes.

Unlawful Bank Notes to be void, &c.

VII. And be it enacted, That the business of Banking shall, for the purposes of this Act, mean the making and issuing of Bank Notes, the dealing in gold and silver bullion and exchange, discounting of promissory notes, bills and negotiable securities, and such other trade as belongs legitimately to the Business of Banking; but any Company or party who may lawfully exercise the business of Banking under this Act, shall also have power to take and hold any property which shall have been *bond fide* mortgaged, hypothecated, or pledged to such Company or party as security for debts previously incurred in the course of their lawful dealings as aforesaid, and sold under any Writ, Order, or Process of any Court of Law or Equity, and bought at such sale by the Company or party, and to re-sell or otherwise alienate or dispose of the same; but, except as aforesaid, no such Company or party shall deal in buying, selling, or bartering of goods, wares, or merchandize, or be engaged in any trade whatever; and the word "Bank" in this Act shall mean and include any Company or party carrying on the business of Banking under this Act, unless such meaning be inconsistent with the context.

What the business of Banking shall be within the meaning of this Act.

Word "Bank" defined.

Individuals or
general partner-
ships may estab-
lish Banks.

VIII. And be it enacted, That any individual or co-partnership of individuals may carry on the business of Banking in this Province at some one place, being a City, Town, or Village therein, provided the requirements of this Act be complied with, but not otherwise; such co-partnership being general and the individual partners being jointly and severally liable as such, and bound by the laws of this Province then in force touching co-partnerships; and any such individual or co-partnership shall be included by the expression "individual Banker," whenever it occurs in this Act.

Joint Stock Com-
panies may be
formed for Bank-
ing.

IX. And be it enacted, That it shall be lawful for any number of persons, not less than five, to associate themselves together as a Joint Stock Bank, to be conducted at some one place, and no more, in Upper Canada, or at some one place in Lower Canada, such place being, in either case, some City, Town, or Village; and when such persons shall have executed articles of agreement in notarial form, if such place be in Lower Canada, and in duplicate under their hands and seals if the same be in Upper Canada, and shewing, in either case—

Articles of agree-
ment to be made
and filed.

What such arti-
cles must show.

The name under which the Bank is to be conducted, which shall be the corporate name of the

Company:

The place at which the Bank is to be conducted as aforesaid:
The whole Capital Stock of the Company, which shall not be less than Twenty-five Thousand Pounds:

The number of shares into which it is divided, which shall not be so great as to make each share less than Ten Pounds:

The name and residence of every Shareholder, and the number of shares held by him:

The period at which the Company is to commence and terminate—

Further provi-
sions may be in-
serted in articles.

And containing such other provision and clauses as may be agreed upon, with regard to the management of the affairs of the Company, the election or appointment of the Directors, Cashier, or other Managers and Officers, their powers, and their terms of office, the transfer of shares, the division of the profits, the calling in of instalments on the stock, the increasing of the stock by the admission of new shareholders or otherwise, the making of By-laws and the purposes for which they may be made and the penalties they may impose, the manner in which the affairs of the Company shall be settled, and its property disposed of and distributed when the Association shall terminate, and generally as to the management of the business of the Company and the rights of the Shareholders

Where the same
shall be filed.

as between themselves; and when a duplicate or notarial copy (as the case may be) of such articles of agreement shall have been filed in Lower Canada, in the office

of the T
the Reg
of the C
Clerk of
business
or regis
articles
fully ma
binding
transfer
and upo
such art
Province
articles s
in such r
vided, an
creditor
any such
of any fe
registered
to the ar
X. An
filing, reg
of agree
corporate
and shall
in Corpor
provisions
siness of
in such C
ness of Ba
Provided
such Com
Corporatio
ive shares
case of th
the Receiv
unpaid in
amount of
enable the
ciation, an
from the a
have held
ment of su
holder aga
him, provid
ers may b
Agreement

of the Prothonotary of the Superior Court for the District, and of the Registry Office for the County in which the place of business of the Company shall be, or in Upper Canada in the office of the Clerk of the County Court for the County in which the place of business of the Company shall be, and shall have been recorded or registered at length in such offices respectively, then the said articles of agreement and the By-laws to be lawfully made in pursuance thereof, shall be valid and binding upon all parties thereto, and upon those who shall (by transfer of shares or otherwise) thereafter become Shareholders, and upon all others concerned, except only that in so much of such articles or By-laws as shall be contrary to the laws of the Province, as modified by this Act, shall be void; and the said articles shall not thereafter be altered, except only in such manner as shall be therein expressly provided, and no such alteration shall prejudice the rights of any creditor of the Company accrued before such alteration, nor shall any such alteration or any By-law made under such articles be of any force unless nor until the same shall be made and filed, registered or recorded, in the manner herein provided with regard to the articles themselves.

They shall then
be binding.

As to altering the
same.

X. And be it enacted, That from and after the filing, registering or recording of any such articles of agreement as aforesaid, the parties thereto shall be a body corporate by the name therein mentioned and taken by them, and shall have all such rights and powers as are by law vested in Corporations generally, and are not inconsistent with the provisions of this Act, and also the power of carrying on the business of Banking, and such other powers as are hereby vested in such Company and in parties authorized to carry on the business of Banking, but subject always to the provisions herein made; Provided always, that the Shareholders in any such Company shall be liable for the debts of the Corporation to the amount of twice their respective shares, and no more, that is to say, each Shareholder may, in case of the insolvency of the Company, be compelled to pay to the Receiver hereinafter mentioned, not only the amount of any unpaid instalment on his shares, but also a sum equal to the amount of his shares, or such less sum as may be sufficient to enable the said Receiver to pay off all the liabilities of the Association, and such sum may be recovered by the Receiver either from the actual holder of any share, or from any party who shall have held such share within one year next before the appointment of such Receiver, saving the recourse of such prior Shareholder against those who may have held the same shares after him, provided that the liability of the Shareholders may be made greater by the Articles of Agreement, but shall never be less than herein provided.

Company to be a
body corporate.

Proviso: liability
of shareholders
limited.

Proviso:

Banks may hold permanently lands, &c. necessary to their business.

XI. And be it enacted, That in addition to such real property as any Joint Stock Bank may acquire under the provisions hereinbefore made, in the course of its dealings in the business of Banking, it may also purchase and permanently hold such other real estate as may be necessary for the convenient carrying on of its lawful business at the place where the same is to be conducted, and may from time depart with the same and acquire other real property in its stead at the said place, so as the total value of such property do not at any time exceed the sum of Twelve Thousand Five Hundred Pounds.

Value limited.

Company, &c., dissolved if not qualified within a certain time.

XII. And be it enacted, That any Joint Stock Company formed under this Act, which shall not within twelve months from the filing of the instrument, certificate or articles aforesaid, become qualified to make and issue Bank Notes shall be *ipso facto* dissolved, saving the remedy of any of the parties concerned for breach of contract by any other of such parties.

Provincial securities to be deposited before the Bank shall commence business.

XIII. And be it enacted, That no individual Banker shall make or issue Bank Notes, and no Joint Stock Association shall commence the business of Banking until they shall have respectively deposited in the hands of the Receiver General, for the purposes of this Act, Debentures or other securities issued by, or the payment of the principal and interest whereof is guaranteed by the Government of this Province, under the authority of the Legislature thereof, and bearing interest at the rate of six per centum per annum (or if bearing a less rate of interest, then to proportionably greater amounts) to amounts not less than those hereinafter mentioned, that is to say :

Any Joint Stock Association, the amount of not less than Twenty-five Thousand Pounds :

Value of securities to be taken at par, &c.

The value of the said Debentures or securities being reckoned at *par*, and the same being held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon being paid over to such Bank as the same shall accrue, except as hereinafter provided.

Inspector General to deliver registered notes to an amount equal to that deposited; which, being signed, &c., shall become notes of the Bank.

XIV. And be it enacted, That whenever any Bank shall have so deposited the required amount of public securities, the Inspector General shall, on the application of such Banks, cause Bank Notes to an amount not exceeding that so deposited, and for such sums respectively not less than Five Shillings, as the Bank shall require, to be struck upon paper to be selected by him and from plates to be furnished by and at the expense of the Bank, but to be approved and kept by him, and after such Notes are numbered and registered and counter-

signed
perform
after h
they sh
so long
they sh
to the
that al
bearer
and sh
posit o

XV.
for any
further
as afor
one tim
as the
shall no
withdra
Genera
returne
shall no
remain
deposi
ing, unl
Provide
withdra
certain

XVI.
returne
provide
speciou
be so m
by the 1
year, a
Bank N
apply fo
Notes ;
exchang
amount
than On

XVII.
Note sh
Office o
non-pay
the Insp
delivered
who sha

signed by him, or the Officer or Clerk whom he shall authorize to perform that duty, he shall deliver the same to the Bank, and after being signed by the proper Officer or Officers of the Bank, they shall be and may be issued and circulated as its Notes: and so long as the Bank shall pay such Notes in specie on demand, they shall be receivable in payment of duties and of all sums due to the Provincial Government: Provided always, that all such Bank Notes shall be made payable to bearer on demand at the Office of the Bank, and not elsewhere, and shall be marked on the face thereof as being secured by deposit of Provincial securities.

Proviso:

XV. And be it enacted, That it shall be lawful for any such Bank, from time to time to deposit a further amount of such Debentures or Securities as aforesaid (so as the amount deposited at any one time shall not be less than Five Thousand Pounds, and so as the total amount deposited by any Joint Stock Association shall not exceed the capital thereof) and from time to time to withdraw the same from deposit, on the certificate of the Inspector General that a like amount of the Notes of such Bank hath been returned to him, so as the amount withdrawn at any one time shall not be less than Five Thousand Pounds, and so as the sum remaining deposited shall never be less than that required to be deposited before the Bank could commence the business of banking, unless when the Bank is to be closed as hereinafter provided: Provided always that the amount deposited or withdrawn at any one time, shall always be a certain number of Hundreds of Pounds.

Securities may be deposited from time to time, and also withdrawn, on certain conditions.

Proviso.

XVI. And be it enacted, That Bank Notes returned to the Inspector General as herein provided shall be marked as cancelled in a conspicuous manner by the Bank returning the same, but shall not be so marked or mutilated as to prevent the identification thereof by the Inspector General, by whom they shall be kept during one year, after which they shall be destroyed; nor shall any such Bank Notes be re-issued by him, but if the Bank shall afterwards apply for more, those issued on such application shall be new Notes; and new Notes may be issued by him at any time in exchange for worn out and disfigured Notes returned to him, the amount presented for exchange at any one time not being less than One Hundred Pounds.

As to Bank Notes returned to Inspector General.

XVII. And be it enacted, That if any such Bank Note shall not be paid in specie on demand at the Office of the proper Bank, it may be protested for non-payment, and a copy of the Note and protest delivered at the Office of the Bank by some person who shall before a Justice of the Peace make

Proceedings if any Bank shall fail to pay its notes in specie.

forwarded to letter to be

Notice to Bank.

affidavit

affidavit of the delivery thereof, require the Bank to pay the same, and if it be not paid (with costs of protest and postage and interest, at the rate of six per cent per annum, from the date of the protest,) within ten days after the delivering of such requisition, then the Inspector General, unless he be satisfied that the Bank has a legal defence, shall close the Bank, by giving notice in the Government Gazette, which notice shall continue to be inserted during three consecutive weeks that the same is closed, and that he will redeem its notes out of the funds in his hands so far as the same will suffice, and that a Receiver (naming him) has been appointed for settling the affairs of the Bank, in whom all its property and credits are vested, and to whom all moneys due to the Bank must thereafter be paid on pain of paying the same again to him, and that no contract, act or thing thereafter made or done by the Bank will be valid or binding upon it; and

Closing the Bank.

Receiver to be appointed; his powers in taking possession of the property of the Bank, &c.

such Receiver shall be appointed by letter from the Secretary of the Province by command of the Governor, and by such appointment the money, property, effects and securities, claims and credits of the Bank shall be transferred to and vested in such Receiver, and shall be delivered over to him by the bank with all the books, papers, accounts and documents relating to the business and affairs of the Bank, and he shall have full power and authority in the name of the Bank to receive, recover or enforce all moneys, property, rights, claims and demands which the Bank might otherwise have received, recovered or enforced, and to bring or continue, complete, defend, compromise, discontinue, or otherwise deal with any suit, action or proceeding at law or in equity, as the Bank might have done, and shall be considered as being *ipso facto* substituted for the Bank; and any Banker or any Partner, Associate or Shareholder in the Bank, or any Director, Manager, Officer or Servant of such Banker or Bank, or other person who shall have been entrusted with the same, without having any legal title to or lien thereupon, who shall have any money, property, securities, books, accounts, papers, or documents of the Bank in his possession or under his controul, and shall not forthwith deliver the same to the said Receiver on demand, shall be held to have fraudulently embezzled the same, and shall be punishable accordingly, and the Receiver may recover possession of the same by any means by which any party may recover possession of his property fraudulently embezzled, and any other party who shall have possession thereof may be proceeded against for the recovery thereof in the usual course of Law: and it shall be the duty of the said Receiver to examine into and settle the affairs of the Bank, and to report thereon from time to time fully to the Inspector General, who shall cause the public securities deposited

His duties in settling the affairs of the Bank.

to pay the
of protest
of six per
within ten
Inspector
as a legal
e in the
e to be
is closed,
s hands so
ning him)
in whom
all moneys
paying the
thereafter
n it; and
etter from
nd of the
e money,
e credits
Receiver,
the books,
iness and
authority
nforce all
the Bank
d, and to
ntinue, or
law or in
sidered as
Banker or
, or any
or Bank,
the same,
ho shall
papers, or
controul,
ceiver on
he same,
ver may
hich any
ntly em-
n thereof
the usual
f the said
affairs of
ly to the
deposited
as

as aforesaid by the Bank, to be sold at such time and in such manner as he shall think most to the advantage of the Creditors of the Bank, and no interest thereon shall be paid to the Bank after the closing thereof, and the Receiver General shall deliver them to the purchasers on the order of the Inspector General, and the proceeds of the sale shall be applied with the other Assets of the Bank, and by the Receiver appointed as aforesaid, first to the redemption of its Bank Notes, and then to the payment of the other liabilities thereof; and as soon as the said securities shall have been sold, the said Receiver shall give notice, if the proceeds of the sale either alone or with other funds of the Bank in his hands shall be sufficient to redeem all the outstanding Bank Notes, that he is ready to redeem the same in full, or if such proceeds and funds be insufficient for that purpose, then, that he is ready to pay as much in the pound on such Bank Notes as the funds in his hands will allow, and so from time to time until they be redeemed in full, or the Assets of the Bank are exhausted; and he shall give the holders of any Bank Notes paid in part, a Certificate stating the facts and entitling them to receive as much more as the funds in his hands will admit, and no other creditor of the Bank shall on any account, or on any plea or privilege of any kind, be paid any part of his claim until the holders of the Bank Notes shall have been paid in full, (with interest from the day the Bank was closed,) and if any Bank Notes known to be outstanding be not presented, the Receiver shall reserve sufficient funds for the payment thereof.

Securities to be sold.

Holders of Bank Notes to be first paid.

XVIII. And be it enacted, That if there be any surplus after paying the holders of Bank Notes, the same shall be distributed among the other creditors of the Bank who shall claim the same, according to their respective privileges and rights; and all claims upon the Bank may be filed with the Receiver at any time within one year from the closing of the Bank with the evidences of such claims, or copies of such evidences, and all the particulars thereof; and the Receiver shall sell and dispose of to the best advantage all the property real and personal and all securities and claims of the Bank which cannot be collected or realized in money within one year from the closing of the Bank, and shall have full power to convey the same to the purchasers; and he shall at some time not less than six months nor more than one year after his appointment make out a schedule showing the Assets which have come into his hands, the expenses incurred and the sums paid for the redemption of Bank Notes, the sum remaining in his hands, and the unpaid liabilities of the Bank, so far as known to him, and showing also the manner and proportion in which, in his opinion, the said remaining sum ought to be distributed

Surplus after paying Note holders to be distributed among the other Creditors.

Disposal of Bank property, &c.

Schedule to be made by Receiver.

among the unsatisfied creditors of the Bank according to their respective rights; and he shall file such schedule in the office of the Circuit or County Court of the Circuit or County in which the business of the Bank shall have been conducted, and shall apply to the Judge or to one of the Judges of the Court to appoint a day, (not being more than twenty nor less than ten days after such application) when the said statement will be taken into consideration; and notice of such day and of the purpose thereof shall be given by the Receiver in such two newspapers, at such intervals, and during such time as the Judge shall appoint, and the said schedule shall lie open to the inspection of all parties interested at the office of the said Court and at the Bank during office hours until the day so appointed; and until within ten clear days of the said day, any party who shall, before the date of the said schedule, have filed his claim with the Receiver, may file in the office of the said court, and serve upon the Receiver a notice of any objection he may have to make to the said statement or to any part thereof, stating clearly and succinctly in ordinary language, words and figures, the reasons of such objections and the evidence (if any) which he proposes to adduce in support thereof; and on the day so appointed or any day or days to which he may adjourn the matter, the said Judge or any other who may sit in the said Court shall in a summary manner hear the parties objecting and the Receiver, and determine upon the merits of the objections, and confirm or amend the said schedule in such manner as he may deem most consistent with the rights of the parties respectively; and during the six clear juridical days next after the said schedule shall have been so confirmed or amended, any of the parties interested may, if the amount to which he is interested be sufficient, give the security required by law on appeals from the said Court, and may then appeal from the decision of the Judge as to the whole or any item of the said schedule as confirmed and amended, to the Superior Court in Lower Canada, or to the Court of Queen's Bench or Common Pleas in Upper Canada, (as the case may be) in the manner by law provided with regard to appeals from other decisions of the Court appealed from, and the decision of the Court so appealed to shall be final, whatever be the amount in question; but pending such appeal, the Receiver may pay to the parties mentioned in the said schedule respectively, so much of the sums therein allotted to them as cannot be affected by any such decision in appeal; and the costs or any portion thereof, may in the discretion of the Judge or Court, be awarded against any party or ordered to be paid by the the Receiver out of any other moneys he may then or thereafter have in his hands, or deducted *pro rata* from the sums to be paid to the claimants or any of them,

To be filed for allowance by a County or Circuit Judge.

Objections may be filed.

Objections to be heard and determined upon.

Appeal given.

As to Costs.

them,
and li
effect
money
shall b
of tha
than T
one.

XIX.
be lav
benefit
any A
than (t
make i

XX.
appoin
structu
the saf
public
same sh
And ev
the due
his han
such su
such se
tenor th
fixed by
the Gov
person n
he may
any suc
Govern
death o
and pow
or matte
demand
effects i
tives fai
person le
property
being th
be recov
be dealt
a civil n
his suret

XXI.
and sala
terminat

them, as justice and the circumstances of the case may require ; and like proceedings shall be had and with like effect whenever the Receiver shall have further moneys in his hands requiring distribution ; but no such schedule shall be filed at a less interval than three months from the filing of that next preceding it, nor for the distribution of a less sum than Two Thousand Five Hundred Pounds, unless it be the final one.

XIX. And be it enacted, That it shall always be lawful for the Receiver, if he shall deem it beneficial to the interests of the creditors of the Bank, to invest any Assets of the Bank which will probably remain for more than three months in his hands, in Provincial securities, so as to make interest thereon.

XX. And be it enacted, That every Receiver appointed under this Act shall obey such instructions as he shall receive from the Inspector General, touching the safe keeping and deposit in any Bank or Banks, or with any public officer, of any moneys in his hands as Receiver, until the same shall be required to be used for the purposes of this Act : And every such Receiver shall give security to Her Majesty for the due accounting for and payment of all moneys coming into his hands to all persons lawfully entitled to receive the same, in such sum, manner and form as the Governor shall direct, and such security shall avail and may be enforced according to the tenor thereof : and the allowance to be made to him shall be fixed by the Governor in Council, but any permanent officer of the Government may be appointed a Receiver, and the same person may act as such with regard to more than one Bank, and he may have Assistants and Clerks under him : and any such Receiver shall be removable by the Governor at pleasure, and his successor appointed in case of his death or removal, shall be substituted for him in all his rights and powers, and may continue and complete any suit, proceeding or matter which the former Receiver shall have begun, and may demand from such former Receiver all the moneys, property and effects in his hands, and any Receiver, or his personal representatives failing to pay or deliver over to his successor or to any person lawfully entitled to receive the same, any such moneys, property or effects, shall be held to have embezzled the same, being the property of Her Majesty, and possession thereof may be recovered by his successor, and he, or his representatives, may be dealt with accordingly, without prejudice to any remedy of a civil nature by the Crown or any other party against him or his sureties.

XXI. And be it enacted, That the engagement and salary of every clerk or officer of a Bank shall terminate on the closing thereof, but any of them

may be employed by the Receiver with the consent of the Inspector General to assist him in his duty: and during three months after the closing of any Bank, the office of the Receiver shall be kept in the office of the Bank, but after that time it may be kept in such other place as he may appoint with the approval of the Governor.

Nonsatisfaction of judgments to be a ground for closing a Bank.

XXII. And be it enacted, That any such Bank may be closed, a Receiver appointed and other proceedings had as provided in the preceding sections, if any judgment against such Bank shall remain unsatisfied for more than three months after the rendering thereof, no appeal from such judgment being then pending.

Proceedings in case a Bank shall be voluntarily closed.

XXIII. And be it enacted, That whenever either by the lapse of time or by the voluntary act of the individual Banker or by agreement among the partners, or associates, or Shareholders in accordance with their articles of agreement, it is intended that any Bank shall be closed, then after nine-tenths of all the Bank Notes of such Bank shall have been redeemed and returned to the Inspector General, the Bank shall give public notice in such manner and during such time as the Inspector General shall appoint, that its Bank Notes are called in and are to be presented at the office of the Bank for payment on or before a day to be named in the notice, and not being more than one year nor less than six months from the date thereof, and that if not so presented they will after the said day cease to be secured by the deposit of Provincial securities; and after the said day, the Inspector General, upon the delivery to him of all that shall have been so presented, and upon security being given by recognizance to his satisfaction that all such of those then outstanding as shall within two years from the giving of such security be presented for payment at some certain place to be named in the recognizance and being within the limits of the City, Town or Village where the business of the Bank was conducted, will be then and there redeemed in current money, may issue his Certificate to the Receiver General for the delivery to the Bank of the remaining one-tenth of the Provincial securities deposited in his hands; and the holder of any Bank Note so presented as provided in such recognizance, and not paid, may recover the amount thereof with interest from the date of presentation and costs, from the cognizers, by action on such recognizance.

List of all the partners, &c. to be kept constantly exposed in the Bank.

XXIV. And be it enacted, That every Bank formed under this Act, shall, whether the partners, associates or shareholders therein be or be not jointly and severally liable, keep constantly and conspicuously exposed and accessible to the public in the office of the Bank, a correct list of all the partners, associates or shareholders therein, with their places of residence, and if the liability

of all
amou
also
articl
as he
shall
ver to
of suc
fied a
unto
copy
dence
truth
any da
of one
another
XX
Bank
where
shall b
place
XX
any Jo
and ev
Banks
shall b
be filed
Lower
triplica
office o
the Cou
shall no
to attac
passed
"An A
Shares
XXV
lities of
three tin
alty of
tinue, an
be incur
capacity
cess sha
incurred
for the l
examine

nt of the
ring three
e Receiver
me it may
e approval

uch Bank
and other
eding sec-
unsatisfied
no appeal

ever either
act of the
among the
with their
shall be

uch Bank
r General,
and during
its Bank
ice of the

he notice.
onths from
after the
ial securi-
on the de-

and upon
on that all
ears from
t at some

ng within
ness of the
in current
ral for the
e Provin-

er of any
ance, and
t from the
action on

ery Bank
e partners,
or be not
antly and
the office
or share-
e liability

of all or any of them be limited, such list shall also shew the amount of the inability of each, and the Bank shall in such case also keep in its office open for public inspection copies of their articles of agreement and of the instrument filed as hereinbefore required, and every such Bank shall on the payment of the sum of sevenpence half-penny deliver to any person applying for the same a copy of such list and of such articles or instrument (if any there be) signed and certified as correct by some partner, associate, officer, or person thereunto authorized by the Bank and stated so to be; and any such copy shall on proof of the signature thereto be *prima facie* evidence that the signer was authorized as aforesaid, and of the contents; and for contravention of this section, on any day, the Bank contravening the same shall incur a penalty of one hundred pounds, the repetition of the contravention on another day constituting a new offence entailing a like penalty.

Copies to be furnished.

XXV. And be it enacted, That the office of every Bank established under this Act, kept at the place where the business of the Bank is to be conducted, shall be *bonâ fide* an office of discount and deposit as well as the place for issuing and redeeming the Notes of such Bank.

Every Bank to keep an office of discount and deposit.

XXVI. And be it enacted, That the share in any Joint Stock Bank shall be personal property, and every transfer of any such share shall, as to Banks in Upper Canada, be made in duplicate, and one duplicate shall be deposited in the office of the Bank, and the other shall be filed in the office of the County Court, and as to the Banks in Lower Canada, such transfers shall be made in triplicate, and one triplicate shall be deposited in the office of the Bank, one in the office of the Superior Court, and one in the Registry Office of the County, and until they be so deposited and filed such transfer shall not affect any third party: and such shares shall be liable to attachment, seizure and sale, under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, "*An Act to provide for the Seizure and Sale of* 12 Vict. c. 23.
Shares in the Capital Stock of Incorporated Companies."

Shares in Joint Stock Banks to be personal.
How transferred.

XXVII. And be it enacted, That the total liabilities of any Joint Stock Bank shall never exceed three times the amount of its capital under a penalty of one hundred pounds for each day such excess shall continue, and the Directors in office at the time such excess shall be incurred shall be jointly and severally liable in their private capacity for all liabilities of the Bank contracted while such excess shall continue, including the day on which it shall have been incurred: and any such excess shall always be sufficient ground for the Inspector General to cause the books of the Bank to be examined as herein provided.

Total liabilities of Joint Stock Bank limited.

Dividends not to
impair capital.

XXVIII. And be it enacted, That no dividend shall be made by any Joint Stock Bank whereby its capital shall be impaired, but out of its clear profits only, after allowing a reasonable sum for bad or doubtful claims.

Unclaimed divi-
dends, &c., to be
advertised.

XXIX. And be it enacted, That every Joint Stock Bank established under this Act, shall advertise any unclaimed dividends or stock of such Bank in such manner as the Inspector General shall from time to time direct.

Statements to be
sent in periodi-
cally by Banks
under this Act.

XXX. And for the better protection of the public in their dealings with Banks established under this Act, Be it enacted, That each and every such Bank shall, on the first day of January and July in each year, transmit to the Inspector General, a full and clear statement of the Assets and Liabilities of the Bank on the day of the date thereof, shewing as clearly as the same can be shewn, without mentioning individual names and accounts, the true state of the affairs of the Bank, and stating with reference to the sums due to the Bank, how the same are secured, what part thereof is due to the Bank by directors or general partners, or is secured by their being liable therefor by endorsement or in any other way, and what proportion thereof (if any) may be considered bad or doubtful; and such statement shall contain in addition to such other particulars as the Inspector General may require :

Particulars to be
contained in such
statement.

First. The amount of Stock invested and secured by deposit of Debentures.

Second. The value of the Real Estate of the Association, specifying what portion thereof is occupied for their business.

Third. The shares of stock held and the number and value held by each Member.

Fourth. The debts owing to the Association or Banker, and the particulars thereof.

Fifth. The debts owing by the Association or Banker, and the particulars thereof.

Sixth. The amount of claims against the Association or Banker not acknowledged as debts.

Seventh. The amount for which the Association or Banker is bound as surety or contingently liable, whether on policies of insurance or otherwise.

Eighth. The amount of Notes in circulation, of loans and discounts and of specie on hand.

Ninth. The amount of the same on the first of July last preceding.

Tenth. The amount of losses sustained, and whether charged on the capital or profits since last statement, and of the dividends declared and made.

Eleventh. The amount of Debentures deposited with the Receiver General.

And such statement shall be attested by the oath, before some Justice of the Peace, of two persons, Attestation of such statements. one being the Banker or one of the general partners, or the President, Vice-President or other functionary, for the time being, at the head of the Association, and the other the Cashier, Bookkeeper, or other chief officer of the Bank for the time being, having charge of the books, papers and money of the Bank, and the ministerial management of its business; each of whom shall swear distinctly that he has such quality or office as aforesaid, that he has had the means of verifying and has verified the statement aforesaid, and found it to be exact and true in every particular, that the property of the Bank has been set down at its true value to the best of his knowledge and belief, and that the allowance made for bad and doubtful claims is, as he verily believes, ample and fair; and such statement shall Statements may be published. be published by the Inspector General in such manner as he shall think most conducive to the public good; and for any neglect to transmit such statement in due course of post, within five days, after the day to which it is to be made up, the Bank shall incur a penalty of twenty-five pounds *per diem*, and if the same be not transmitted within one month after the said day, or if it shall appear by the statement that the Bank is insolvent, the Inspector General may close the Bank, and proceedings shall then be had in all respects as when a Bank is closed for other causes: and if the Inspector General shall in any case suspect any such statement to be wilfully false, he may depute some competent person to examine the books and enquire into the affairs of the Bank, and to report to him on oath, and if by such report it shall appear that such statement was wilfully false or that the Bank is insolvent, or if the person so deputed shall report on oath that he has been refused such access to the Books or such information as would enable him to make a sufficient report, the Inspector General may close the Bank, and proceedings shall be thereupon had as aforesaid: but if the report be satisfactory, the information obtained by the person so deputed as to the particular account of any party with the Bank, shall not be divulged: but in any of the cases in which discretionary power is given to the Inspector General to close a Bank, he may before so doing give notice to the Bank, and afford the same an opportunity of making any explanation it may be advisable to make.

XXXI. And be it enacted, That all the expenses of carrying this Act into effect shall be borne by the Banks to be established under it; and such part of the said expenses as shall be directly incurred for or on account of any particular Bank shall be paid by it, and the remainder shall be yearly apportioned upon the several Banks in proportion

How expenses of carrying this Act into effect shall be paid.

proportion to the amount of Bank Notes issued to each: and the share of such expenses payable by any Bank may, if not sooner paid, be deducted from the interest of the Provincial securities deposited by it in the hands of the Receiver General, upon the Certificate of the Inspector General; and in the case of the closing of any Bank by the Inspector General, all such expenses payable by the Bank shall be paid out of the Assets thereof in preference to any other claim whatever.

Fees for certain services under this Act.

XXXII. And be it enacted, That the fees to be taken by the Clerk of any Superior or County Court or any Registrar, shall be: for filing and recording or registering any Instrument under this Act, and Certificate thereof, seven shillings and six pence, and six pence per hundred words in such Instrument and Certificate; and for the like services, as to the transfer of any share or shares, two shillings and six pence, and six pence per hundred words.

Existing Banks may avail themselves of certain provisions of this Act.

XXXIII. And be it enacted, That any of the now Incorporated Banks in this Province may deposit Provincial securities in the hands of the Receiver General, and obtain registered notes to the amount so deposited from the Inspector General, marked as being secured by deposit as aforesaid, which being afterwards signed by the proper functionaries of such Incorporated Bank, shall be Bank Notes thereof and may be circulated, and shall have the same privileges and advantages as other Bank Notes registered under this Act; and the provisions of this Act relative to the preparation and delivery of registered notes by the Inspector General and the payment of the expenses attending the same, shall apply to those delivered by him under this Section, but the other provisions of this Act shall not be thereby extended or deemed applicable to any now Incorporated Bank; Provided always, that in case of the failure of any such now Incorporated Bank, the holders of the registered notes thereof shall be paid out of the proceeds of the debentures by the deposit whereof the same are secured and of any dividend or interest accruing thereon after such failure, in preference to any other creditor whatever of such Bank.

No duty to be paid on registered Notes.

& 5 Vict. c. 29.

XXXIV. And be it enacted, That for and notwithstanding anything in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for levying a certain rate or duty on Bank Notes issued and in circulation in this Province*, no duty shall be payable on Bank Notes secured by the deposit of Provincial securities in the manner hereinbefore provided.

Interpretation and reservation of right to amend this Act.

XXXV. And be it enacted, That the Interpretation Act shall apply to this Act, and that if any case not expressly provided for by this Act shall arise, it shall be decided in such manner as shall be most consonant

to the general spirit of the provisions of this Act, to which reference shall always be had in applying the law to such case; and no amendment of this Act, or declaratory enactment applying indiscriminately to all similar cases, which may be made as to the intent and meaning of this Act, nor any enactment which shall be made for giving full effect to its provisions or any of them, shall be deemed an infringement of the rights of any party, although the same may incidentally affect pending cases, or Banks established before the passing of the amending or declaratory Act; and the Governor in Council shall have full power from time to time, to make regulations for the governance of the Inspector General and all Receivers or Officers to be appointed under this Act, in the performance of the duties assigned to them; and all Courts to whom any jurisdiction is assigned by this Act shall have full power to make rules of practice and tariffs of fees with regard to all proceedings to be adopted in carrying such jurisdiction into effect.

XXXVI. And be it enacted, That a general statement of the Banks established under this Act, their capital, circulation, liabilities, and such other particulars respecting them as may be required to shew the operation of this Act, and an account of the expenses incurred in carrying it into effect, shall be laid before the Legislature within thirty days after the opening of each Session thereof.

Statements to be laid before the Legislature.

BANKS AND BANKING ACT, (AMENDED.)

C A P. L X I X .

AN ACT TO AMEND THE ACT TO ESTABLISH FREEDOM OF BANKING IN THIS PROVINCE.

[Assented to, 30th August, 1851.]

WHEREAS it is expedient that statements of the Assets and Liabilities of Banks to be established under the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to establish Freedom of Banking in this Province, and for other purposes relative to Banks and Banking*, should be made up and published more frequently than is required by the said Act: Be it therefore enacted, &c., That the statements of the Assets and Liabilities of every Bank established or to be established under the Act first above cited, required by the thirtieth section thereof, shall (instead of being transmitted half yearly, as in the said section provided,) be transmitted to the Inspector General on the first day of each month in every year (or if such day be Sunday or

Preamble.

13 & 14 Vict. c. 21.

Statements required by Sect. 30 of the said Act, to be made up and published monthly instead of half-yearly.

Holiday,

Holiday, then on the next day not being so) made up to and bearing date upon the evening of the last day of the preceding month not being a Sunday or Holiday, and such statement shall be published by the Inspector General, at the expense of the Bank, and in such way as he shall think most conducive to the public good; and every such statement shall contain all the particulars mentioned in the said section, and shall be attested in the manner therein provided; and by any neglect to transmit any statement, or by any wilfully false statement, the Bank in default shall incur the same penalties and consequences, and the Inspector General shall have the same powers, if he suspects any statement to be wilfully false, or if it appears by any statement that the Bank is insolvent, as are provided in similar cases in and by the said section, which shall hereafter be construed and have effect as if the words "the first day of each month in every year" had been inserted in the said section, instead of the words "the first day of January and July in each year," where they occur in the said section, except in so far as such construction would be inconsistent with any provision of this Act.

Time allowed to certain Banks or Companies by Section 2, of the said Act extended on certain conditions.

II. And whereas by the last proviso to the second section of the Act hereby amended, it is provided that the said section shall not, during twelve months next after the passing thereof, apply to any Banks or Company not thereinbefore excepted, and authorized by Legislative enactment to issue Bank Notes, and it is expedient to extend the time allowed by the said proviso: Be it therefore enacted, that the said section shall not, until the first day of January, one thousand eight hundred and fifty-five, apply to any Bank or Company excepted from its operation by the said proviso, provided such Bank or Company shall reduce the amount of its Bank Notes not secured by the deposit of securities upon which registered Bank Notes may be issued under the said Act, in the following manner, that is to say: before the first day of January, one thousand eight hundred and fifty-two, such amount shall be reduced to not exceeding three-fourths of the average circulation of such Bank during the year one thousand eight hundred and fifty; before the first day of January, one thousand eight hundred and fifty-three, such amount shall be reduced to not exceeding one half the said average circulation; before the first day of January, one thousand eight hundred and fifty-four, such amount shall be reduced to not exceeding one-fourth of such average circulation; and before the first day of January, one thousand eight hundred and fifty-five, such amount shall be reduced to nothing: but if any such Bank or Company shall fail to make any such reduction as aforesaid, then, upon such failure, the said section shall immediately apply to such Bank or Company which shall be liable to all the penalties imposed by the said Act for any contravention thereof.

le up to and
he preceding
atement shall
of the Bank,
to the public
e particulars
n the manner
y statement,
lt shall incur
ector General
atement to be
t the Bank is
d by the said
ve effect as if
ar " had been
the first day of
ar in the said
be inconsis-

to the second
it is provided
welve months
to any Banks
cepted, and
Bank Notes, and
said proviso:
not, until the
and fifty-five,
operation by
shall reduce
he deposit of
e issued under
y: before the
and fifty-two,
ree-fourths of
ear one thou-
ay of January,
ount shall be
e circulation;
t hundred and
ceeding one-
e first day of
, such amount
k or Company
aid, then, upon
apply to such
the penalties
roof.

CHARTERED

CHARTERED BANKS.

C A P. X X I I.

AN ACT TO CONFER CERTAIN RIGHTS UPON THE CHARTERED BANKS OF THIS PROVINCE, AND TO DECLARE THE RIGHTS ALREADY POSSESSED BY THEM IN CERTAIN CASES.

[Assented to, 10th August, 1850.]

WHEREAS it is desirable to extend certain rights to the Chartered Banks of this Province, and to make plain the rights already held by them in certain cases: Be it therefore enacted, &c., That notwithstanding anything in any former Act contained, it shall and may be lawful to and for any Bank Incorporated or holding a Charter under Act of Parliament of this Province, or of any former Parliament of Upper or Lower Canada, to take, hold, and dispose of mortgages and *hypothèques* upon personal as well as real property, by way of additional security for debts contracted to any such Bank in the course of its business; and that the rights, powers, and privileges which the said Banks have or are hereby declared to have or to have had in respect of real estate mortgaged to them, shall be held and possessed by them, in respect of any personal estate which may be mortgaged to them.

Preamble.

Banks may hold mortgages on real or personal property in certain cases.

II. And be it enacted, That notwithstanding anything in any former Act contained, it shall and may be lawful to and for any such Chartered Bank to purchase any lands or real estate which may be offered for sale under execution at the suit of any Bank so purchasing, or may be exposed to sale by any such Bank under a power of sale given to it for that purpose, in cases where, under similar circumstances, an individual could so purchase, without any restriction as to the value of the lands which it may so purchase, and to acquire a title thereto as any individual purchasing at Sheriff's sale or under a power of sale, in like circumstances, may and can do, and the same to take, have and hold, and dispose of at pleasure.

Banks may purchase property mortgaged to them.

III. And whereas doubts have arisen as to the right and competency of any such Bank under its existing Charter to acquire and hold an absolute title in or to land which had been mortgaged to any such Bank in security for a debt due or owing to it, either by obtaining a release to such

Doubts.
Recital.

Bank

Bank of the equity of redemption in the said mortgaged premises, or by procuring a foreclosure thereof in the Court of Chancery, or by other means whereby, as between individuals, an equity of redemption can or may by law be shut out or barred: And whereas it is expedient to quiet such doubts, it is hereby declared and enacted, That nothing in any former Act of the Parliament of this Province, or of any former Parliament of Upper or Lower Canada did or does prevent or prohibit any such Bank from acquiring in the manner above in this Section referred to, and holding at its disposal, an absolute title to and in any such mortgaged lands, whatever the value thereof may be, or from exercising or acting upon any power of sale contained in any mortgage given to it or held by it, authorizing or enabling it to sell, dispose of or convey away any lands so mortgaged.

They may obtain a title by foreclosure, &c.

BANK NOTES' ACT.

CAP. CLXII.

AN ACT TO ENCOURAGE THE ISSUE BY THE CHARTERED BANKS IN THIS PROVINCE, OF NOTES SECURED IN THE MANNER PROVIDED BY THE GENERAL BANKING LAW.

[Assented to, 14th June, 1853.]

Preamble.

WHEREAS it is expedient to encourage the Chartered Banks in this Province to issue and circulate Bank Notes secured in a manner as nearly similar as circumstances will permit to that provided by the general laws now in force for regulating the business of Banking: Be it therefore enacted, &c., That it shall be lawful for any Chartered Bank in this Province, the total amount of whose Bank Notes of all values, to be issued and in circulation at any one time, is by its Charter or Act of Incorporation or any act amending the same, limited to the amount of its paid up Capital,—or the total amount of whose Bank Notes each for less than some assigned sum, to be issued and in circulation at any one time, is by any such Act limited to a certain sum or to a certain proportion of its capital,—to issue and have in circulation at any time any further amount of such Bank Notes beyond the amount limited in either of the said cases, not exceeding in

Banks may issue notes, or notes of a certain kind beyond the amount limited by their charters, —on certain conditions.

either case or in both together, the sum which such Bank shall then have on hand in gold and silver coin or bullion and Debentures receivable in deposit for Registered Bank Notes under the laws for regulating the business of Banking, the value of such Debentures to be reckoned at par; but it shall not be necessary that such coin or bullion or Debentures be deposited with the Receiver General, or that the Bank notes to be so issued be registered.

II. And be it enacted, That the duty payable by any Bank under the Act passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act for levying a certain rate or duty on Bank Notes issued and in circulation in this Province*, on its Bank Notes issued and in circulation, shall be calculated and paid only upon the sum by which the average amount of its Bank Notes in circulation during any period, shall have exceeded the average amount of the gold and silver coin and bullion and of such Debentures as aforesaid which such Bank shall have had on hand during the same period.

Duty under 4 & 5 Victoria, c. 29, reduced in certain cases.

III. And be it enacted, That so much of the Act last cited, or of the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to exempt the several Chartered Banks from the tax on their circulation on certain conditions*, or if any other act or Law, as may be inconsistent with this Act, shall be and is hereby repealed

Inconsistent enactments of 14 & 15 Vict., c. 70, or other Acts repealed.

SAVINGS' BANKS PUBLIC ACT.

CAP. XXXII.

AN ACT TO ENCOURAGE THE ESTABLISHMENT OF, AND REGULATE SAVINGS BANKS IN THIS PROVINCE.

[Assented to, 18th September, 1841.]

WHEREAS certain Provident Institutions or Banks for Savings have been or may be established in this Province, for the safe custody and increase of small Savings belonging to the industrious classes of Her Majesty's Subjects, and it is expedient to give protection to such Institutions and the funds thereby established, and to afford encouragement to others to form like Institutions: Be it therefore enacted,

Preamble.

Any number of persons forming any Society for the purpose of instituting a Bank for Savings, desirous of having the benefit of this Act, shall cause the rules, &c., established for the management of the Institution to be entered, deposited and filed in manner directed by this Act.

out of such produce so much as shall be required to be so retained for the purpose of paying and discharging the necessary expenses attending the management of such Institution, according to such rules, orders, and regulations as shall have been, or shall be established for that purpose, but deriving no benefit whatsoever from any such deposit or the produce thereof, shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules, orders, and regulations established or to be established for the management of such Institution to be entered, deposited and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to, and shall have the benefit of the provisions contained in this Act.

Such Institution not to have the benefit of this Act unless the rules, &c., for the management thereof be entered in a book to be open for the inspection of depositors, and unless such rules be transcribed on parchment and deposited with the Clerk of the Peace for the District or County.

Clerk of the Peace for the District wherein such Institution shall be established; and such transcript shall be filed by such Clerk of the Peace, with the rolls of the Session of the Peace in his custody, without any fee or reward to be paid in respect thereof; but nothing herein contained shall extend to prevent any alteration in or amendment of any such rules, orders or regulations so entered and deposited and filed as aforesaid, or the repealing or annulling the same or any of them, in the whole or in part, or making any new rules, orders or regulations for the management of any such Institution, in such manner as by the rules, orders and regulations of such Institution shall from time to time be provided; but such new rules, orders or regulations, or such alterations in, or amendments of former rules, orders, or regulations, or

enacted, &c., That if any number of persons, who have formed or shall form any Society in any part of this Province, for the purpose of establishing and maintaining any Institution in the nature of a Bank, to receive deposits of money for the benefit of the persons depositing the same, and to accumulate the produce of so much thereof as shall not be required by the depositors, to be paid in the nature of compound interest, and to return the whole or any part of such deposit, and the produce thereof, to the depositors, deducting only

II. Provided always, and be it enacted, That no such Institution, as aforesaid, shall have the benefit of this Act, unless the rules, orders and regulations for the management thereof, shall be entered in a book or books to be kept by an officer of such Institution, to be appointed for that purpose, and shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such Institution; nor unless such rules, orders and regulations shall be fairly transcribed on parchment, and such transcript shall be deposited with the

IV.
and
force
as a
book
of the
sever
and t
and t
as af
in su
posito
of su
true c
and r
be br
gulati

persons, who
y in any part
establishing
nature of a
or the benefit
and to accu-
reof as shall
e paid in the
o return the
osit, and the
ducting only
t to be so re-
he necessary
tion, accord-
ave been, or
g no benefit
hereof, shall
of this Act,
ations estab-
h Institution
fter directed,
d shall have

any order annulling or repealing any former rules, orders, or regulations, in the whole or in part, shall not be in force until the same, respectively, shall be entered in such book or books, as aforesaid, and a transcript or transcripts thereof shall be deposited with such Clerk of the Peace, as aforesaid, who shall file the same without fee or reward, as aforesaid.

III. Provided also, and be it enacted, That no such Institution, as aforesaid, shall have the benefit of this Act, unless it shall be expressly provided by the rules, orders and regulations for the management thereof, that no person or persons being Treasurer, Trustee or Manager of such Institution, or having any control in the management thereof, shall enter upon the duty of his office, unless he has taken an oath before any one Justice of the Peace, who is hereby authorized and required to administer the same, to the faithful discharge thereof, nor shall derive any benefit from any deposit made in such Institution, but that the persons depositing money therein shall have the sole benefit of such deposits and the produce thereof, according to such rules, orders and regulations as shall have been or shall be established for that purpose as aforesaid, save only and except such salaries and allowances or other necessary expenses as shall, according to such rules, orders and regulations be provided for the charges of managing such Institution, and for the remuneration to officers employed in the management thereof, exclusive of the Director or Directors, Trustee or Trustees, or other persons having direction in the management of such Institution, who shall not directly or indirectly have any salary, allowance, profit or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such Institution.

No Institution to have the benefit of this Act unless it is provided by the rules, that no Treasurer, &c., shall have any benefit from any deposit, and has been sworn.

ted, That no
e the benefit
d regulations
entered in a
of such Insti-
se, and shall
e inspection
funds of such
ers and regu-
a parchment,
ted with the
titution shall
y such Clerk
Peace in his
pect thereof;
t any altera-
regulations so
repealing or
e in part, or
management
rules, orders
time be pro-
such altera-
regulations, or
any

IV. And be it enacted, That all rules, orders and regulations from time to time made and in force for the management of any such Institution, as aforesaid, and duly entered in such book or books as aforesaid, and deposited with such Clerk of the Peace as aforesaid, shall be binding on the several Members and Officers of such Institution, and the several depositors therein, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit, as aforesaid, and the entry of such rules, orders and regulations in such book or books, as aforesaid, or the transcript thereof, deposited with such Clerk of the Peace, as aforesaid, or a true copy of such transcript examined with the original, and certified as a true copy, shall be received as evidence of such rules, orders and regulations, respectively, in all cases, and no *certiorari* shall be brought or allowed to remove any such rules, orders and regulations into any of Her Majesty's Courts of record; and every

Rules to be binding on the several members and officers of the Institution, and of the several depositors and their representatives, and to be received in evidence in all Courts of record.

copy of any such transcript deposited with any Clerk of the Peace, as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

Treasurer may, if required, be bound with sureties for the faithful execution of his trust.

V. And be it enacted, That if any Treasurer or Treasurers, or other officer or officers, or other person whatever, who shall be entrusted with the receipt or custody of any sum or sums of money subscribed or deposited for the purposes of such Institution, or any Interest or Dividend from time to time accruing thereby, shall be required by the rules or regulations of such Institution to become bound with sureties for the just and faithful execution of such office or trust, in such sum or sums of money as shall be required by the rules, orders and regulations of such Institution, such security shall and may be given by bond or bonds to the Clerk of the Peace for the District, where such Institution shall be established for the time being, without fee or reward; and in case of forfeiture, it shall be lawful for the persons authorized for that purpose by the rules, regulations and orders of such Institution, to sue upon such bond or bonds in the name of such Clerk of the Peace for the time being, and to carry on such suit at the costs and charges, and for the use of the said Institution, fully indemnifying and saving harmless such Clerk of the Peace from all costs and charges in respect to such suit.

All monies, &c., and rights belonging to the Institution vested in the Trustees of each Institution for the time being for the benefit of the Institution and the respective depositors, &c.

VI. And be it enacted, That all monies, goods, chattels and effects whatever, and all securities for money or other obligatory instrument, and evidences or muniments, and all other effects whatever, and rights and claims belonging to or had by such Institution, shall be vested in the Trustee or Trustees of such Institution for the time being, for the use and benefit of such Institution and the respective depositors therein, according to their respective claims and interests, and after the death or removal of any Trustee or Trustees, then in his or their Successor or Successors, for the same estate and interest, as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, except the transfer of stocks and securities; and also shall, for all purposes of action or suit, as well criminal as civil, in law or equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of Trustee or Trustees of such Institution for the time being, in his, her or their proper name or names, without further description; and such person or persons shall and they are hereby, respectively, authorized to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil, in law or equity, touching or concerning

the Peace,
except the

reasurer or
or other
d with the
of money
tution, or
g thereby,
Institution
execution
as shall be
Institution,
ads to the
tution shall
d; and in
hORIZED for
ch Institu-
uch Clerk
suit at the
n, fully in-
e from all

ies, goods,
securities
t, and evi-
cts whai-
or had by
Trustee or
being, for
ve deposi-
interests,
tees, then
state and
and sub-
nveyance
and also
as civil,
the same,
g (where
or persons
Institution
or names,
shall and
defend, or
osecution,
ncerning
the

the property, right or claim aforesaid, of or belonging to or had by such Institution, and such person or persons so appointed, shall and may in all cases concerning the property, right or claim aforesaid, of such Institution, sue and be sued, plead and be impleaded, in his, her or their proper name or names, as Trustee or Trustees of such Institution without other description; and no such suit, action or prosecution shall be discontinued or abated by the death of such person or persons, or his or their removal from the office of Trustee or Trustees, as aforesaid; but the same shall and may be proceeded in by the succeeding Trustee or Trustees in the proper name or names of the person or persons commencing the same, any law, usage or custom to the contrary notwithstanding: and such succeeding Trustee or Trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names, for the benefit of, or to be reimbursed from the funds of such Institution.

VII. And be it enacted, That all and every person or persons who shall have received, or may hereafter receive, any part of the monies, effects or funds of, or belonging to such Institution, or shall in any manner have been, or shall be intrusted with the disposition, management or custody thereof, or of any securities relating to the same, his, her or their heirs, executors, administrators, curators and assigns, or other legal representatives, respectively, shall, upon demand made in pursuance of any order of the committee of such Institution, or of any other delegated authority as aforesaid, or at any general meeting of the Managers thereof, give in his, her or their account or accounts to such committee or other authority as aforesaid, or to such general meeting of the Managers of such institution, or to such other person or persons who shall be nominated to receive the same, to be examined and allowed or disallowed by the said Committee or Managers, respectively; and shall on the like demand pay over all the monies remaining in his or their hands, and assign and transfer or deliver all securities, effects, books, papers, or funds taken or standing in his or their name or names, as aforesaid, or being in his or their hands or custody, to such person or persons as the said Committee or Managers of such Institution shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign, transfer or deliver such securities, effects, books, papers or funds in manner aforesaid, it shall be lawful to and for the Trustee or Trustees of such Institution, for the time being, to exhibit a petition to the Justice of the Superior Court, having Civil Jurisdiction in the District wherein such Institution shall be established, who shall and may proceed thereupon in a summary way, and make such order therein, upon hearing all parties concerned, as

All persons hav-
ing received mo-
nies belonging to
the Institution to
account for the
same.

to such Court in their discretion shall seem just, which order shall be final and conclusive; and all assignments, sales and transfer made in pursuance of such order, shall be good and effectual in Law, to all intents and purposes whatsoever.

Property in Sav-
ings Banks to
descend to heirs,
executors, &c.

VIII. And be it enacted, That all property, rights, titles, privileges and immunities which shall arise or accrue to any person or persons under this Act, shall pass and descend to the heirs, executors, administrators, or assigns of such person or persons, or to the curator of the estate or other legal representative of such person or persons, according to the Law of the part of the Province, relating to real or personal estate in which any such Savings Bank shall or may be established.

Trustees may in-
vest monies in
any incorporated
Bank; but not
with a private
Banker or on per-
sonal security.

IX. And be it enacted, That it shall be lawful for the Trustees to invest any monies not exceeding three quarters of the whole sum deposited in such Institution, at any one time, which shall come into their hands by virtue of this Act, in any Debentures issued under the authority of any Act of the Provincial Parliament of either of the late Provinces of Upper or Lower Canada, or of this Province or in any Bank Chartered by any Act of the Legislature of either of the late Provinces of Upper or Lower Canada or other public security in this Province, therein to avail for the purposes of this Act; but it shall not be lawful for the said Trustees to invest any such monies upon personal security; such sum or sums of money only excepted as shall from time to time remain in the hands of the Treasurer or Treasurers, to meet the necessary expenses and exigencies of the Institution, which may be vested in such personal securities; and should it appear upon due examination at the general or annual meeting of the Trustees duly called for the inspection of the Accounts of any such Savings Bank that after payment of, or after due provision is made for the liquidation of all debts or deposits, and all interest due to, or arising thereupon, to depositors or others, there will be any surplus profit or interests, it may be appropriated, and paid over to any charitable Institution in this Province by Law established or incorporated: Provided that the vote to make such appropriation be carried in the affirmative by not less than three-fourths of the Trustees present at the meeting.

Where no pro-
vision is made by
any general rule,
&c. matters in
dispute may be
submitted to
Arbitrators and
the award shall
be final.

X. And be it enacted, That where provision shall be made by one or more of the general rules, orders or regulations of any such Institution, and filed as hereinbefore required, for a reference by arbitration of any matter in dispute between any such Institution, or any person or persons acting under them, and any individual depositor therein,

which order
sales and
good and
ver.

erty, rights,
shall arise
r this Act,
strators, or
e estate or
according
l or perso-
r may be

be lawful
not exceed-
deposited in
shall come
n any De-
ne Provin-
Upper or
artered by
ovinces of
Province,
shall not be
upon per-
cepted as
asurer or
cies of the
rities; and
or annual
ion of the
ment of, or
ebts or de-
depositors
it may be
ion in this
ed that the
ormative by
e meeting.

provision
eral rules,
ution, and
erence by
etween any
ons acting
or therein,
or

or any executor, administrator, next of kin, or creditor of any deceased depositor, or any person claiming to be such executor, administrator, next of kin, or creditor, then and in every such case the matter so in dispute shall be referred to such arbitrator or arbitrators as shall have been named according to the general rules, orders or regulations of such Institution; and whatever award, order, or determination shall be made according to the true purport and meaning of the rules, orders and regulations of such Institution, shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.

XI. And be it enacted, That whenever a transcript of the rules, orders and regulations for the management of any Institution requiring the benefit of this Act, shall have been, or shall be deposited with the Clerk of the Peace for the District wherein such Institution shall be established, pursuant to the directions of this Act, such transcript shall be signed by two Trustees of such Institution, and shall, by such Clerk of the Peace, be laid before the Justices of the Peace for such District, at the General or Quarter Sessions next after the time when such transcript shall have been so deposited; and it shall be lawful for such Justices then and there present, after due examination thereof, to reject and disapprove of such part or parts thereof, as shall be repugnant to the true intent and meaning of this Act; and to allow and confirm the said transcript, or such part or parts thereof, as shall be conformable to the true intent and meaning of this Act: Provided always, that such Justices, shall signify such rejection or disapproval of any one or more of the rules, orders and regulations contained in such transcript, by the words "rejected," or "disapproved," written opposite such rule or rules, order or orders, regulation or regulations, and signed by the Chairman of such Sessions; and such rule or rules, order or orders, regulation or regulations, as shall be so rejected or disapproved of, shall not be in force from the time of such rejection or disapproval; any thing in this Act, or in any such rules, orders, and regulations to the contrary notwithstanding: Provided always, that the Clerk of the Peace do, within the space of ten days next after such rejection or disapproval, give notice thereof in writing to the two Trustees of such Institution by whom the transcript of such rules, orders and regulations shall have been signed, as aforesaid.

Whenever a transcript of the rules, &c. shall be deposited with the Clerk of the Peace for the District where such Institution is established, such transcript shall be signed by two Trustees of such Institution.

Proviso.

XII. And be it enacted, That the said Trustees shall not receive on deposit, for the use and benefit of depositors, any larger sum than five hundred pounds, at the same time, of any one depositor other than a religious or charitable Corporation.

No depositor to have more than £500 at the same time on deposit.

Trustees to lay a detailed account of all monies deposited, the number of the depositors and the securities in which the monies are invested, &c. before the Legislature.

XIII. And be it enacted, That within the first fifteen days of each Session of the Legislature, the said Trustees shall lay before the three Branches thereof, a detailed account of the number of depositors, the total amount of deposits; the amount invested in Bank Stock, specifying the names of such Banks; the amount deposited with Banks on interest; the amount secured by Bank Stock, specifying the name of such Banks, the amount vested in public security, or loaned on the pledge of such public security; specifying the nature of such public security; the amount of cash in hand; the total accrued interest for the year, and the annual amount of the expenses of the Institution; all of which shall be sworn to by the Treasurer; and the Trustees or a majority of them shall make oath, that the said return is correct according to the best of their knowledge and belief.

Amount.

XIV. And be it enacted, That this Act shall continue and remain in force during ten years, from and after the passing thereof, and from thence until the end of the then next ensuing Session of the Legislature, and no longer.

Public Act.

XV. And be it enacted, That this Act shall be deemed a Public Act, and shall be judicially taken notice of as such, by all Judges, Justices, and other persons whomsoever, without the same being specially pleaded.

SAVINGS' BANKS ACT CONTINUED.

C A P. L V.

AN ACT TO CONTINUE FOR A LIMITED TIME AN ACT INTITULED, AN ACT TO ENCOURAGE THE ESTABLISHMENT OF AND REGULATE SAVINGS BANKS IN THIS PROVINCE.

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS in and by the Act of the Parliament of this Province passed in the Session thereof held in the fourth and fifth years of Her Majesty's Reign, intituled *An Act to encourage the establishment of and regulate Savings Banks in this Province*, it is amongst other things enacted, That the said Act should continue and remain in force during ten years

4 & 5 Vict., c. 32, cited.

the first
ature, the
Branches
umber of
ites; the
ying the
ited with
by Bank
nt vested
security;
mount of
st for the
penses of
reasurer;
ath, that
ir know-

Act shall
en years,
until the
e, and no

shall be
lly taken
persons

ED.

N ACT TO
GS BANKS

1851.]

e Parlia-
in the
of Her
rage the
s in this
ed, That
ring ten
years

12 Vict.

EXCHANGE AND NOTES' ACT, (C. E.) Cap. 22, 1849.

years from and after the passing thereof, and from thence until the end of the then next ensuing Session of the Legislature, and no longer; and whereas it is expedient that the said Act should be further continued for a limited time: Be it therefore enacted, &c., That so much of the said Act as limits the duration thereof as aforesaid, shall be, and the same is hereby repealed; and that the said Act shall continue and remain in force during five years from and after the passing of this Act, and from thence until the end of the then next ensuing Session of the Legislature, and no longer.

Said Act con-
tinued for five
years, &c.

BILLS OF EXCHANGE AND NOTES' ACT, (C.E.)

C A P. X X I I.

AN ACT TO AMEND THE LAW REGULATING INLAND BILLS OF EXCHANGE AND PROMISSORY NOTES, AND THE PROTESTING THEREOF, AND FOREIGN BILLS, IN CERTAIN CASES, CANADA EAST.

[Assented to, 30th May, 1849.]

WHEREAS it is expedient to revise the laws relating to Inland Bills of Exchange and Promissory Notes, and to render more uniform the protesting thereof, and the practice in that behalf: Be it therefore enacted, &c., That on and from the day when this Act shall come into force, an Act of the Parliament of Lower Canada, passed in the thirty-fourth year of the Reign of King George the Third, intituled, *An Act to facilitate the negotiation of Promissory Notes*, shall be and is hereby repealed.

Preamble.

Act of C. E. 34
Geo 3, c. 2, re-
pealed.

II. And be it enacted, That any Bill drawn or Note made payable to the order of any person, or to the order of the maker or drawer thereof, shall be deemed and taken to be negotiable, and shall be transferable by endorsement either in full or in blank or by delivery, and the holder under a blank endorsement shall have the same remedy by action as if the endorsement were in full.

Bill or Note
drawn to order of
any person, &c.
transferable
without notice,
by endorsement,
&c.

III. And be it enacted, That when the words *value received* shall be expressed on the face of any Bill or Note, value shall be presumed to have been received on every such Bill or Note and endorsement thereon, for the amount thereof.

Provision when a
Bill or Note shall
express "value
received," on its
face.

Acceptance of a Bill must be in writing on such Bill, &c.

IV. And be it enacted, That no acceptance of any Bill shall be sufficient to bind or charge any person, unless such acceptance shall be in writing on some part of such Bill, or if there be more than one part of such Bill, on one of the said parts.

Days of grace allowed.

V. And be it enacted, That three days of grace, and no more, next after the day when such Bill or Note shall become due and payable or after the day when such Bill shall be presented to the drawer thereof if drawn at sight, shall be allowed for the payment thereof, and shall be reckoned to expire in the afternoon of the third day of the said days of grace, unless the said third day shall fall on a Sunday or holy-day, when the next day preceding not being a Sunday or holy-day shall be the last of the days of grace; anything in any law or usage or custom to the contrary notwithstanding; Provided

Provido.

always, that nothing herein contained shall be construed to entitle the maker of any Note payable on demand to any days of grace, or to prevent the holder of any such Note from demanding payment for the same at any time, and protesting for nonpayment whenever the same shall be refused.

Non-payment of a Bill or Note on last day of grace, to entitle holder to recover interest from that day.

VI. And be it enacted, That the non-payment of any Bill or Note after the maturity thereof, and on or before the last day of grace, shall *ipso facto* entitle the holder to recover from the party liable on such Bill or Note, in addition to the principal sum thereof, legal interest thereon from the last day of grace, whether such Bill or Note be protested or not.

Bills or Notes, to be deemed payable generally, unless a certain place is specified therein.

VII. And be it enacted, That every such Bill or Note shall be deemed and taken to be payable generally, unless it is expressed in the body thereof that the same is payable at a Bank or other place (*only, and not otherwise or elsewhere); and every acceptance of a Bill shall be deemed and taken to be a general acceptance, unless the same shall be expressed to be payable at a Bank or other place only, and not otherwise or elsewhere; and the acceptance

Provido: what shall be deemed a general acceptance, or a qualified one.

on such Bill and the promise on such Note so made payable at a Bank or other place (only, and not otherwise and elsewhere) as aforesaid, shall be and be taken to be a qualified acceptance of such Bill or promise of such Note; and the acceptor or maker shall not be liable to pay the said Bill or Note, except in default of payment when such payment shall have been first duly demanded at such Bank or other place.

Provision with respect to protesting for non-acceptance.

VIII. And be it enacted, That whenever any Bill shall be refused acceptance by the drawee thereof, the same may be forthwith protested for non-acceptance;

(* Repealed by Cap. 23, 1850.)

ceptance of
charge any
in writing
one part of

rs of grace,
uch Bill or
when such
n at sight,
e reckoned
aid days of

y or holy-
ay or holy-
in any law
; Provided
d shall be
ote payable
der of any
t any time,
be refused.

n-payment
hereof, and
ipso facto
arty liable
e principal
y of grace,

uch Bill or
e payable
ody thereof
ther place
eptance of
a general
expressed
only, and
acceptance
yable at a
(where) as
eptance of
or maker
in default
st duly de-

never any
e drawee
tested for
ceptance;

non-acceptance; and after due notice of such protest shall have been given to the parties liable on such Bill, the holder thereof may insist on immediate payment from the said parties, and may sue for and recover the amount of such Bill with costs and interest, as if the same had matured and been protested for non-payment; Provided always, that when due notice of non-acceptance shall have been given to the said parties, it shall not be necessary afterwards to present the said Bill for payment, or if such presentment be made to give notice of the dishonour.

Proviso as to
notice.

IX. And be it enacted, That the duty of noting and protesting Bills and protesting Notes shall be performed in Lower Canada by the Public Notaries for Lower Canada; and every protest shall be made in duplicate by one Notary underneath or on the back of a copy of the Bill or Note and its endorsements; and no second or countersigning Notary, and no witness, shall be deemed necessary for the perfecting of any act of noting, protesting, or notice made or given by such Notary; any law, usage or custom to the contrary notwithstanding.

Duly commissioned
Notaries to
Note and protest
Bills and Notes in
C. E.—One No-
tary sufficient.

X. And be it enacted, That every noting for non-acceptance of a Bill shall be made underneath, or be endorsed upon the back of a copy of the Bill and endorsements, and filed and kept upon record by the Notary noting the same; and upon every Bill noted or protested for non-acceptance, and every Bill or Note protested for non-payment, the protesting Notary shall write, print or stamp the words "noted for non-acceptance," or "protested for non-acceptance," or "protested for non-payment," (as the case may be), with the date of the noting and protest, and his fees and charges, and shall subscribe thereto his initials, and the usual initial letters designating his office: Provided always, that when a Bill noted for non-acceptance shall afterwards be protested for non-payment, it shall not be necessary to extend a protest for non-acceptance, but the noting and the date thereof, with the name of the Notary by whom the noting was effected, shall be stated in the body of the protest for non-payment.

Noting for non-
acceptance of a
Bill to be made
underneath or on
back of copy of
Bill.

As to notes pro-
tested.

Proviso.

XI. And be it enacted, That notice to any party entitled thereto, of the protest for non-acceptance or for non-payment, shall be deemed sufficient if such notice be given to such party personally or at his residence, office or usual place of business; and in case of death or absence at his last residence, office or place of business, or if the said notice directed to such party be deposited in the nearest Post Office communicating with the residence or office or place

Service of notice
of protest for non-
acceptance, or
non-payment,
how made.

place of business aforesaid of such party, and the postage thereon be pre-paid; and like notice given to the duly appointed and notified assignee of the bankrupt estate of any bankrupt party, liable on any Bill or Note, shall be as valid and effectual as if such notice had been given to the bankrupt personally, or at his residence, office or usual place of business, or through the Post Office as aforesaid; Provided always, that in such cases, the Bill shall have been drawn or endorsed, and the Note shall have been endorsed by the bankrupt, before the issuing of the commission of bankruptcy against him.

Duplicate protest of Bill or Note to be *prima facie* evidence in C. E. &c.

XII. And be it enacted, That the duplicate protest and duplicate notice aforesaid, with the service of such notice duly attested under the signature of the protesting Notary, shall be deemed and taken by all Courts and by all persons, and in all places within Lower Canada, to be *prima facie* evidence of the truth of the matters in such protest and notice and service thereof respectively set forth as matters of fact; and the same faith and credence shall likewise be given to all copies of the same, attested in like manner to be true copies of the originals thereof remaining of record in the protesting Notary's office.

Bill or Note payable at a specified place, to be presented for payment at that place.

XIII. And be it enacted, That every Bill and Note, payable at such Bank or other place, shall be presented for payment at such Bank or place only; and every Bill and Note payable generally, shall at maturity be presented to the acceptor or maker, either personally or at his then residence or office or usual place of business; or if presentment for payment of any such Bill or Note payable generally, cannot be made to the maker or acceptor as aforesaid, by reason of his absence, and not having any known residence or office or place of business, at or in the place where his Acceptance or Note bears date, by reason of his death, then such presentment for payment of any such Bill or Note shall be deemed good and sufficient if made at the residence or office or usual place of business of such acceptor or maker, or at his last known residence or office or usual place of business, in the said place where the Acceptance or Note bears date.

Unpaid Bills may be protested at the expiration of the forenoon of the last day of grace.

XIV. And be it enacted, That if at the expiration of the forenoon of the last day of grace any Bill or Note shall be unpaid, the holder thereof may cause the same to be duly presented for payment, and in default thereof to be protested for non-payment; Provided always, that no presentment and protest for non-payment of any Bill or Note shall be sufficient to charge the parties liable on such Bill or Note, unless

age thereon
ted and no-
party, liable
as if such
at his resid-
Post Office
such cases,
dorsed, and
before the

uplicate pro-
th the ser-
signature
emed and
ces within
ruth of the
thereof re-
faith and
ne, attested
remaining

y Bill and
place, shall
k or place
generally,
ker, either
ce of busi-
any such
t be made
s absence,
ce of busi-
Note bears
r payment
ufficient if
ess of such
r office or
acceptance

he expira-
grace any
er thereof
d for pay-
payment;
nd protest
ll be suffi-
ote, unless
such

such presentment and protest be made in the afternoon of the last day of grace, nor unless also due notice of the protest be given to the said parties as hereinafter provided: And further, provided always, that the liability of such acceptor or maker towards the holder, shall continue in full force and effect, although the liability of the other parties may be discharged from the want or illegality of protest or of notice of protest.

Proviso.

XV. And be it enacted, That if a Bill accepted payable generally, or a Note payable generally, shall become due after the appointment and public notification of the appointment of an assignee to the estate of the acceptor or maker as aforesaid, under a commission of bankruptcy issued against him, the presentment for payment of such Bill or Note may be made either to the bankrupt personally or at his residence or office or usual place of business, or to the assignee personally or at his residence or office or usual place of business; and such presentment shall be as valid and effectual as if the presentment had been made to the bankrupt personally or at his residence or office or usual place of business; Provided, however, that the acceptance of the Bill or the making of the Note shall have been effected before the issuing of such commission against such acceptor or maker.

Proviso when a Bill or Note payable generally shall become due after the acceptor or promisor becomes bankrupt.

Proviso.

XVI. And be it enacted, That any service of notice of protest for non-acceptance or non-payment, if made within three days next after the day upon which such Bill or Note shall have been protested, shall have the same force and effect as if such service had been made upon the day of protesting the same: Provided always, that nothing herein shall be construed to extend the time for protesting any Bill or Note herein provided.

Effect of notarial service of notice of protest.

Proviso.

XVII. And be it enacted, That whenever any Bill shall be noted for non-acceptance, it shall not be necessary to cause service of notice of the same to be made upon any party liable thereon; Provided always, that whenever any Bill so noted shall afterwards be presented for non-payment, the notice of such protest shall also embody notice of the previous noting for non-acceptance, and shall give the holder of any such Bill the same right to recover from the parties liable thereon, as if they had been severally served with notice of the noting thereof.

Not requisite to serve notice of noting for non-acceptance.

Proviso: if afterwards protested for non-payment.

XVIII. And be it enacted, That the several fees and charges mentioned in the schedule to this Act subjoined, relating to the protesting and noting of Bills and Notes, together with the postages prepaid

Fees in the Schedule to this Act allowed for noting, protesting, &c.

upon notices deposited at any Post Office as herein provided for, shall and may be claimed from the holder of the Bill or Note by the Notary or Justice performing such duties, and shall be recovered from such parties thereto as shall be liable for payment of the same.

Penalty on an unqualified person noting or protesting Bills and Notes.

XIX. And be it enacted, That every person who shall represent himself to be a Notary for or Justice of the Peace in Lower Canada, and who shall act at such in and about the protesting of a Bill or Note, or in and about the noting of a Bill, not being such Notary for or Justice in Lower Canada, and being convicted thereof, shall be deemed and taken to be guilty of a misdemeanor, and shall be punished by imprisonment for the space of not more than six months.

Justices of the Peace where there are no Notaries, &c., may note and protest Bills and Notes.

XX. And be it enacted, That in places where the holder of a Bill or Note shall be prevented from employing a Notary, by reason of their being none resident practising therein, or by reason of the absence or disability from sickness or otherwise of such Notary, it shall be lawful for any Justice of the Peace duly commissioned and sworn in Lower Canada, to make such noting and protest and to give notice of the same; and all such acts done by any such Justice shall have the same force and virtue as if the same had been done by a Notary; Provided that such Justice shall state and set forth in the body or preamble of such protest, the particulars and reasons wherefore the same could not be done and performed by a Notary; and a certificate and duplicate copy of such protest or noting, containing such reasons, under the hand and seal of such Justice, shall be deemed and taken to be sufficient proof in any Court in Lower Canada of the truth thereof.

Discount may be retained at time of discounting.

XXI. And be it enacted, That in the discounting of any Bill or Note, it shall be lawful for any person to retain, receive or charge the amount of the discount or interest upon the principal sum therein specified at the time the same shall be discounted or received.

Commission may be retained in addition to discount in certain cases.

XXII. And be it enacted, That it shall be lawful for any person who shall discount or receive any Bill or Note payable in Lower Canada, but at a distance from the place wherein the same shall be discounted or received to charge, retain or receive over and above the legal interest upon any such Bill or Note, a commission sufficient to defray any agency, expense or exchange attending the collection thereof; and the holder shall, notwithstanding such commission, have the same right to recover the full amount of any such Bill or Note, with any interest thereon accrued after maturity and protest

tes
ch
alv
cee
No

X

assu

usu

cou

into

any

give

bona

ships

there

be d

shall

ous c

hand

deliv

same

or be

rati

been

usuric

(See

page 2

XXI

and cl

to whi

initial

or first

hold to

to desig

contract

of stati

XXV

relating

provided

Lower C

in the ab

in force

tigations

Notes, r

England

provided for,
or Note by
all be reco-
payment of

person who
or or Justice
who shall act
of a Bill or
uch Notary
ted thereof,
meanor, and
ot more than

aces where
e prevented
their being
y reason of
of such No-
uly commis-
noting and
h acts done
virtue as if
y; Provided
forth in the
e particulars
d performed
such protest
and seal of
ent proof in

he discount-
wful for any
e discount or
the time the

all be lawful
receive any
da, but at a
discounted or
the legal in-
ficient to de-
ne collection
commission,
y such Bill or
rity and pro-
test

test, as he would have had if no more than interest had been charged, retained or received thereupon: Provided always, that such commission shall in no wise exceed the rate of one per centum upon the amount of such Bill or Note.

Provido: not to
exceed 1 per cent.

XXIII. And whereas by law all contracts and assurances whatsoever for the payment of money made for an usurious consideration are utterly void; and whereas, in the course of mercantile transactions, negotiable securities often pass into the hands of persons who have discounted the same without any knowledge of the original conditions for which the same were given; and the avoidance of such securities in the hands of such *bona fide* endorsees without notice, it is attended with great hardship and injustice: For remedy thereof—Be it therefore enacted, That no Bill or Note that shall be drawn or made after the passing of this Act shall, though it may have been given for an usurious consideration, or upon an usurious contract, be void in the hands of an endorsee, or in the case of a Note transferable by delivery, in the hands of a person who shall have acquired the same as bearer for valuable consideration, unless such endorsee or bearer had, at the time of discounting or paying such consideration for the same, actual knowledge that such Bill or Note had been originally given for an usurious consideration or upon an usurious contract.

Recital.

Usurious consid-
eration not to
affect a *bona fide*
endorsee, &c.,
without notice.

(See *Usury Laws amended*, 16 Vict., Cap. 80, page 307, in this Work.)

Usury Laws
amended, 16 Vict.
cap. 80, 1853.

XXIV. And be it enacted, That in every action and claim founded upon a Bill or Note, any party to which is designated on such Bill or Note by the initial letters or some contraction of his Christian or first name or names, it shall be sufficient in every affidavit to hold to bail, and in the Writ or Process and declaration or claim, to designate such person by the same initial letter or letters or contraction of his Christian name or first name or names, instead of stating the same in full.

In actions, &c., on
Bills or Notes, in-
itials, &c., of
Christian names
sufficient.

XXV. And be it enacted, That in all matters relating to Bills and Notes not herein specially provided for, recourse shall be had in all Courts in Lower Canada, to the laws now in force there, and in the absence of such laws, to the laws of England in force at the time of the passing of this Act, and in the investigations of all facts in actions and suits founded upon Bills and Notes, recourse shall be had in all such Courts to the laws of England in force at the time of the passing of this Act; Provided always,

In actions on Bills
and Notes in C. E.
recourse to be had
to English laws,
if the law of C. E.
be silent; and as
to the evidence
in all cases.

Proviso. always, that Bills or Notes made or endorsed by persons not traders shall be subjected, in matters of proof thereon, to the said laws of England; and provided always, that nothing herein contained shall be construed to debar the parties to such actions and claims, from examining each other upon of interrogatories *sur faits et articles*, or upon the *serment décisoire*, or to debar the Judges of the Courts from deferring to any of the parties to such actions and claims, the oaths known as the *juramentum judiciale*, or *juramentum suppletorium*, and the *juramentum in litem*.

What shall be holy-days under this Act.

XXVI. And be it enacted, That none other than the New Year's or Circumcision day, the Epiphany or Twelfth day, Annunciation day, Good Friday, Ascension day, Corpus Christi day, St. Peter and St. Paul's day, All Saints' day, Conception day, and Christmas day, the anniversary of and day fixed to celebrate the birthday of our Sovereign, and any day appointed by Royal Proclamation or by Proclamation of the Governor General or Person administering the Government of this Province, for a Solemn Fast or as a day of Thanksgiving, shall be deemed and taken to be a holy-day within the meaning of this Act.

Interpretation clause.

XXVII. And be it enacted, That wherever in this Act, with reference to any person, matter or thing, any word or words is or are used, importing the singular number or the masculine gender only, such word or words shall be understood and construed to include several persons as well as one person, females as well as males, bodies politic or corporate as well as individuals, and several matters or things, as well as one matter or thing, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction.

XXVIII. Repealed. (See Section I. of the General Banking Law, page 257 in this work.)

Forms to be those in the Schedules.

XXIX. And be it enacted, That the several notings, protests, notices thereof, and services of notice hereinbefore mentioned, shall be in the forms of the several Schedules of forms to this Act subjoined.

A Bill drawn abroad and payable in C. E. to be subject to this Act in certain particulars.

XXX. And whereas it is expedient to make provision for certain particulars in Foreign Bills of Exchange; Be it therefore enacted, That all Bills drawn abroad upon any person in Lower Canada, or payable or accepted at any place within Lower Canada, shall, as to all parties resident therein and liable on such Bills, be subjected to the provisions of this Act with respect to the days of grace for payment of the same, and commission and interest thereon,

endorsed by
of thereon,
that nothing
ties to such
of interro-
isoire, or to
of the par-
s the jura-
l the jura-

none other
n day, the
Friday, As-
Paul's day,
, the anni-
f our Sove-
a or by Pro-
stering the
as a day of
-day within

wherever in
n, matter or
the singular
words shall
sons as well
ic or corpo-
ngs, as well
ly provided,
nant to such

cal Banking

the several
l services of
forms of the

to make pro-
eign Bills of
That all Bills
ower Canada,
Canada, shall,
Bills, be sub-
o the days of
and interest
thereon,

thereon, and both noting and protesting of such Bills for non-acceptance, and non-payment, and the notification and service of such protest.

XXXI. And be it enacted, That all Bills, Limitation of ac-
tions on Bills pay-
able in C. E. whether Foreign or Inland, and all Notes, due and payable in Lower Canada at the time when this Act shall come into force, shall be held and taken to be absolutely paid and discharged if no suit or action is brought thereon, within five years next after the day on which such Bills or Notes shall become due and payable, and all such Bills and Notes made and not due when, or to be made after this Act shall come into force, shall be held and taken to be absolutely paid and discharged if no such suit or action is brought thereon, within five years after the day on which such Bills or Notes shall become due and payable.

XXXII. And be it enacted, That this Act shall Commencement
of this Act. commence and take effect on and from the first day of August next after the passing thereof.

See Bills of Exchange Act, amended, 14 & 15 Vict., cap. 62, 1851, page 299 in this work.

SCHEDULES.

FEEES AND CHARGES.

	£	s.	d.
For presenting and noting for non-acceptance, any Inland Bill of Exchange, and keeping the same on record.....	0	5	0
Copy of the same when required by the holder.....	0	2	6
For protesting for non-payment, any Inland Bill of Exchange or Promissory Note, and putting the same on record.....	0	5	0
For making and furnishing the holder of any Bill or Note, with duplicate Copy of any protest for non-acceptance or non-payment, with certificate of service and copy of notice served upon the drawer and endorsers	0	2	6
For every Notice, including the service and recording copy of the same, to an endorser or drawer.....	0	2	6
Exclusive of actual travelling expense incurred by the Notary for travelling one mile from his residence, and two shillings and sixpence for his professional services, if within one league, five shillings, if within two leagues, and seven shillings and sixpence, if within any further distance.			

No. 1.

NOTING FOR NON-ACCEPTANCE.

(Copy of Bill and Endorsements.)

On the 18, the above Bill was by me, at the request of , presented for acceptance to E. F., the drawee, personally (or, at his residence, office or usual place of business in the city, town or village of) and I received for answer, " ; The said Bill is therefore noted for non-acceptance.

A. B.,
Not. Pub.

18 .

Due notice of the above was by me served upon { A. B., }
the { drawer, } personally, on the day of { C. D., }
(or, at his residence, office or usual place of business in)
, on the day of ,
(or, by depositing such notice, directed to him at
in Her Majesty's Post Office in this city, town or village, on the
day of , and pre-paying the postage
thereon.)

A. B.,
Not. Pub.

18 .

No. 2.

PROTEST for non-acceptance or for non-payment of a Bill payable generally.

(Copy of Bill and Endorsements.)

On this day of in the year 18 , I, A. B., Notary Public, for Lower Canada, dwelling at in Lower Canada, at the request of did exhibit the original Bill of Exchange, whereof a true copy is above written, unto E. F., the { drawee } thereof, personally, (or, at his residence, office or usual place of business in) and, speaking to himself (or his wife, his clerk, or his servant, &c.,) did demand { acceptance } thereof; unto which demand { he } answered, " ;"

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor,
294 drawer

PROTEST

If the
should i
service
&c., co

drawer and endorsers (or, drawer and endorser) of the said Bill, and other parties thereto, or therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of { acceptance } of the said Bill.
 { payment }

All which I attest under my signature.
 (Protested in duplicate.)

A. B.,
 Not. Pub.

No. 3.

PROTEST for non-acceptance or for non-payment of a BILL payable at a specified place.

(Copy of Bill and Endorsements.)

On this day of in the year
 18 , I, A. B., Notary Public for Lower Canada, dwelling at
 in Lower Canada, at the request of
 , did exhibit the original Bill of Exchange
 whereof a true copy is above written, unto E. F., the { drawee }
 thereof, at , being the specified place where
 the said Bill is payable, and there, speaking to ,
 did demand { acceptance } of the said bill ; unto which demand
 { payment }
 he answered, “ .”

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the acceptor, drawer and endorsers, (or, drawer and endorser) of the said Bill, and all other parties thereto, or therein concerned, for all exchange, re-exchange, and all costs, damages and interest, present and to come, for want of { acceptance } of the said Bill.
 { payment }

All which I attest under my signature.
 (Protested in duplicate.)

A. B.
 Not. Pub.

No. 4.

PROTEST for non-payment of a BILL NOTED, but not protested, for non-acceptance.

If the Protest be made by the same Notary who noted the bill, it should immediately follow the act of noting and memorandum of service thereof, beginning with the words “And afterwards, on, &c.” continuing as in the last preceding form, but introducing
 between

between the words "did exhibit," the word "again;" and, in a parenthesis, between the words "written unto," the words ("and which Bill was by me duly noted for non-acceptance on the day of last.")

But if the Protest be not made by the same Notary, then it should follow a copy of the original Bill and endorsements and noting marked on the Bill,—and then in the Protest introduce in a parenthesis, between the words "written unto," the words ("and which Bill was on the day of last, by , Public Notary for Lower Canada, noted for non-acceptance, as appears by his note thereof marked on the said Bill.")

No. 5.

PROTEST for non-payment of a NOTE PAYABLE GENERALLY.

(Copy of Note and Endorsements.)

On this day of in the year 18 , I, A. B., Notary Public for Lower Canada, dwelling at , in Lower Canada, at the request of did exhibit the original Promissory Note, whereof a true copy is above written, unto the promissor, personally, (or, at his residence, office or usual place of business in ,) and speaking to himself, (or his wife, his clerk, or his servant, &c.,) did demand payment thereof; unto which demand { he } answered, " she } ."

Wherefore I, the said Notary, at the request aforesaid, have protested, and by these presents do protest against the promissor and endorsers of the said Note, and all other parties thereto or therein concerned, for all costs, damages and interest present and to come, for want of payment of the said Note.

All which I attest under my signature.

(Protested in duplicate.)

A. B.,
Not. Pub.

No. 6.

PROTEST for non-payment of a NOTE payable at a particular place.

(Copy of Note and Endorsements.)

On this day of in the year 18 , I, A. B., Notary Public for Lower Canada, dwelling at , in Lower Canada, at the request of did exhibit the original Promissory Note whereof a true copy is above written, unto , the

e or usual
 to himself,
 d payment
 ”
 •
 said, have
 promissor
 thereto or
 resent and

the

297

No. 8.

NOTARIAL NOTICE of Protest for non-payment of a NOTE.

(Place and date of Protest.)

To at

Sir,

Mr. P. Q.'s Promissory Note for £ dated at _____,
the payable { days } after date to { you, } or order,
 { months }
 on— E. F.
and endorsed by you, was this day, at the request of _____,
duly protested by me for non-payment.

A. B.,
Not. Pub.

No. 9.

Act of Notarial SERVICE OF NOTICE of a Protest for non-acceptance or non-payment of a Bill, or of non-payment of a Note (to be subjoined to the Protest.)

And afterwards, I, the aforesaid protesting Notary Public, did serve due notice in the form prescribed by law, of the foregoing Protest, for { non-acceptance } of the { bill } thereby protest-
ed upon { non-payment. } of the { note }
ed upon { P. Q., } the { drawer } personally, on the
{ C. D., } { endorser }
day of (or, at his residence, office, or usual place
of business in , on the day of ;
or, by depositing such notice, directed to the said { P. Q., }
{ C. D., } at
, in Her Majesty's Post Office in this city, (town,
or village,) on the day of , and pre-paying
the postage thereon.)

In testimony whereof, I have, on the last mentioned day and year, at aforesaid, signed these presents.

A. B.,
Not. Pub.

No. 10.

PROTEST by a JUSTICE OF THE PEACE (*where there is no Notary*) for
non-acceptance of a Bill, or non-payment of a Bill or Note.

(Copy of Bill or Note and Endorsements.)

On this day of , in the year 18 ,
I, N. O., one of Her Majesty's Justices of the Peace for the District

Wherei of th Reig Bills

ap. 22, 1849.

a NOTE.

at
} or order,

3.,
Not. Pub.

acceptance
a Note (to

Public, did
e foregoing
by protest-

e
usual place

P. Q., } at
C. D., }
tity, (town,
pre-paying

ed day and
ents.

Not. Pub.

Notary) for
r Note.

ar 18
ce for the
District

14 & 15 Vict. EXCHANGE ACT, TO EXPLAIN, (C. E.) Cap. 62, 1851.

District of , in Lower Canada, dwelling at (or
near) the village of , in the said District, (there being
no practising Notary Public resident at or near the said village,
or any other legal cause,) did, at the request of
and in presence of

, a householder in the said
District, well known unto me, exhibit the original { bill
note } whereof

a true copy is above written unto P. Q., the { drawer
acceptor } thereof,

personally, (or, at his residence, office, or usual place of business
in , and speaking to himself, his wife, his clerk or
his servant, &c.,) did demand { acceptance
payment } thereof, unto which

demand { he
she } answered, " ."

Wherefore I, the said Justice of the Peace, at the request
aforesaid, have protested, and by these presents do protest against
the { drawer and endorsers
promissor and endorsers } of the said { bill,
acceptor, drawer and endorsers } note, } and

all other parties thereto and therein concerned, for all exchange,
re-exchange, and all costs, damages and interest, present and to
come, for want of { acceptance
payment } of the said { bill,
note. }

All which is by these presents attested under the signature of
the said (*the witness*) and under my hand and seal.

(Protested in duplicate.)

(*Signature of the witness.*)

(*Signature and seal of the J. P.*)

BILLS OF EXCHANGE ACT, TO EXPLAIN, (C. E.)

C A P. L X I I.

AN ACT TO EXPLAIN AND AMEND THE LAW IN CANADA EAST, RESPECTING
BILLS OF EXCHANGE.

[Assented to, 30th August, 1851.]

WHEREAS doubts exist respecting the legal
effect of protests in the particular cases
herein after mentioned, made in the form prescribed by the Act
of this Province, passed in the twelfth year of Her Majesty's
Reign, and intituled, *An Act to amend the Law regulating Inland
Bills of Exchange and Promissory Notes, and the protesting
thereof*

Preamble.

thereof, and Foreign Bills in certain cases, and it is expedient to prevent the continuance of such doubts, and also to amend the

As to protests made before the passing of this Act.

said Act: Be it therefore enacted, &c., That notwithstanding the omission in any protest made since the passing of the said Act, of any Bill of Exchange or Promissory Note, of the statement of the period of the day in which the Protest was made, such protest shall be held and taken to have been made in the afternoon of the day of the date thereof, unless the contrary shall appear on the face of the protest; any thing in the said Act to the contrary notwithstanding.

As to protests made after the passing of this Act.

II. And be it enacted, That any protest made after the passing of this Act, in the form prescribed in the said Act, shall be held and taken to have been and to be made in the afternoon of the day in which it bears date, unless the contrary shall appear upon the face of the protest.

As to protests in cases now pending.

III. And be it enacted, That in any action at law, or legal proceeding pending in Court in Lower Canada for the recovery of the amount of a protested Bill of Exchange or Promissory Note, in the protest whereof the omission shall exist of the statement, that such protest was made in the afternoon of the day on which it bears date, and such action or proceeding shall be contested by reason of such omission, and no judgment shall have been therein rendered on the merits by such Court, it shall be lawful for the party prosecuting therein, or his legal representatives, to present a petition to the Court in which such action or proceeding is pending, pleading this Act, praying that the benefit thereof be allowed him, and thereupon all and every the objections based upon the omission aforesaid shall cease and have no effect, after such notice of the said petition shall have been given to the objecting party or his attorney on the record, as shall by the said Court be deemed sufficient, and thereupon it shall be lawful for the said Court to order the ejection from the record of any plea or defence or proof thereof based upon such omission, and to order a repleader or otherwise, in the said action and proceeding, as the Court in its discretion may, on good cause shown therefor, allow, according to law and the practice of the said Court:

Proviso.

Provided always, that the party contesting shall not be liable to any costs of suit if he makes payment of the said amount before notice given to him of such petition, nor in any case to the costs arising from the said Petition.

What evidence shall be required in actions on bills or notes.

IV. And be it enacted, That in any action or suit founded on a Bill of Exchange or Promissory Note, against any party, no other evidence shall be required or adduced than such as, under the Act

aforesaid

expedient to amend the
That not-
protest made
any Bill of
statement of
made, such
in the after-
ntrary shall
said Act to

protest made
n prescribed
then to have
f the day in
on the face

y action at
a Court in
amount of a
the protest
that such
ich it bears
d by reason
een therein
ful for the
, to present
ceeding is
thereof be
tions based
effect, after
ven to the
by the said
lawful for
any plea or
nd to order
ding, as the
efor, allow,
said Court:
ng shall not
of the said
nor in any

y action or
Promissory
nce shall be
er the Act
aforesaid

13 & 14 Vict. EXTRACT FROM THE PROTEST ACT. Cap. 23, 1850.

aforesaid of the Parliament of this Province, may be required or adduced in an action or suit founded on a Bill of Exchange or on a Promissory Note whereto all the parties are traders.

V. And be it enacted, That the Notarial demand of payment, preliminary to the Protest of any Bill of Exchange or of any Promissory Note, payable at a Bank, may be lawfully made at such Bank, either within or after the usual afternoon banking hours of such Bank ; any law or usage to the contrary notwithstanding.

Where the
Notarial demand
of payment may
be made.

VI. Provided always, and be it enacted, That nothing herein contained shall apply to any protest of any Bill of Exchange or Promissory Note upon which any judgment of any Court of original jurisdiction shall have been rendered previous to the passing of this Act.

Act not to apply
to cases wherein
judgment has
been given.

EXTRACT FROM THE PROTEST ACT.

C A P. XXIII.

OFFICERS OF BANKS NOT TO ACT AS NOTARIES.

III. AND be it enacted, That no Clerk, Teller, or Agent of any Bank, shall act as a Notary in the protesting of any Bill or Promissory Note, payable at the Bank, or any of its Agencies, in which such Clerk, Teller, or Agent is employed.

Officers of Banks
not to act as No-
taries in Canada
East, or West.

IV. And for the avoidance of doubts as to the true intent and meaning of the seventh section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Law regulating Inland Bills of Exchange and Promissory Notes, and the protesting thereof, and Foreign Bills in certain cases*, Be it declared and enacted, That it is not and shall not be necessary under the said section that the words "only, and not otherwise or elsewhere," or words of like import, be inserted in the body of the Bill or Note, or in any acceptance of a Bill or Note, in order to prevent the same from being payable generally, or the acceptance from being general ; but if in any Bill or Note, or in the acceptance thereof, the same be made payable at any stated place, it shall be understood to be made payable at such place only, and not otherwise or elsewhere, and the pro-

Recital.

12 Vict. c. 23.

Section 7 of the
said Act interpre-
ted.

mise or acceptance shall be held to be qualified accordingly:
 Proviso. Provided always, that this section shall not extend
 to Upper Canada.

Protests to be
prima facie evi-
 dence.

VI. And be it enacted, That from and after the passing of this Act, all Protests of Bills of Exchange and Promissory Notes shall be taken and received in all the Courts of Law and Equity in this Province to be *prima facie* evidence of the allegations and facts therein set forth and contained.

BILLS OF EXCHANGE ACT, (C. W.)

C A P. L X X V I.

AN ACT TO REGULATE THE RATES OF DAMAGES ON PROTESTED BILLS OF EXCHANGE IN CANADA WEST.

[Assented to, 30th May, 1849.]

Preamble.

WHEREAS it is expedient for the purposes of Commerce that the law regulating the Rates of Damages on Protested Bills of Exchange in Upper Canada should be better defined: Be it therefore enacted, &c., That from and after the passing of this Act, the Rate of Damages to be allowed and paid upon the usual protest for non-payment of Bills of Exchange drawn, sold or negotiated within Upper Canada, and although the same may not have been drawn on or by any person residing therein, shall in the following cases be as follows:—

Drawn on
 Europe or West
 Indies, &c.

First. If such Bill shall have been drawn upon any person or persons at any place in Europe or in the West Indies, or in any part of America not within this Province or any other British North American Colony, and not within the Territory of the United States, ten per cent. upon the principal sum specified in such Bill.

On other B. N. A.
 Colonies, or U. S.

Secondly. If such Bill shall have been drawn upon any person or persons in any of the other British North American Colonies, or in the United States, four per cent. upon the principal sum specified in such Bill; and in each and every of the foregoing cases, such Bill shall also be subject to six per centum per annum of interest on the amount for which the Bill is drawn, to be

Interest to be
 also allowed.

Accordingly :
not extend

After the
of Ex-
taken and
Province
ets therein

W.)

BILLS OF

, 1840.]

purposes
lating the
per Cana-
&c., That
e Rate of
the usual
ge drawn,
ada, and
ny person
ws :—

own upon
Europe or
erica not
n Colony,
per cent.

on drawn
the other
ne United
uch Bill ;
ses, such
ntum per
wn, to be
reckoned

reckoned from the day of the date of the protest to the time of repayment, which amount shall be reimbursed to the holder at the current rate of Exchange the day when the protest for non-payment shall be produced and repayment demanded, that is to say : the holder of any such Bill returned under protest for non-payment, shall be entitled to demand and recover from the drawer or endorser thereof, so much current money of this Province as shall then be equal to the purchase of another Bill of the like amount, drawn on the same place, at the same date or sight, together with the damages and interest above mentioned, as also the expenses of noting and protesting the Bill, and all other charges and postages incurred thereon.

By whom pay-
able, and at what
rate of Exchange.

II. And be it enacted, That damages at the rate of four per cent. upon the principal sum specified therein, shall be allowed and paid upon the protests of every Promissory Note made or negotiated within Upper Canada, and payable only at some place in the United States of America, or in any of the British North American Colonies except Canada, and not otherwise or elsewhere, and that such principal sum together with interest thereon at the rate of six per centum per annum, to be reckoned from the day of the date of the protest shall be reimbursed to the holder at the current rate of Exchange of the day when the protest shall be produced and repayment demanded, that is to say : the holder of any such note returned under protest, shall be entitled to demand and recover from the maker or endorsers thereof so much current money of this Province as shall then be equal to the purchase of a Bill of Exchange of the like amount drawn on the same place at the same date or sight, together with the damages and interest above mentioned, and also the expense of protesting the note, and all charges and postages incurred thereon.

Damages and
interest allowed
for non-payment
of promissory
notes in certain
cases.

III. And be it enacted, That when the protest of a Bill or note returned for non-payment shall, by the holder thereof, be notified to the drawer, maker or endorser in person, or in writing delivered to a grown person at his or their counting house or dwelling house, and they disagree about the then rate of Exchange for Commercial Bills, the holder and the drawer, maker or endorser so notified, or any one of them, may apply to the President or in his absence the Secretary of any Board of Trade or Chamber of Commerce in the City or Town, in which the holder of such protested bill or note, or his agent may reside, or in the City or Town nearest to the residence of such holder or Agent, and obtain from such President or Secretary a certificate in writing under his hand, stating the said rate of exchange, and the rate stated in such

How the rate of
exchange shall be
ascertained in
case of dispute,

certificate shall be final and conclusive as to the then rate of exchange, and regulate the sum to be paid accordingly.

Land Bills or
Notes to bear
interest after
protest.

IV. And be it enacted, That all Bills, Drafts or Orders drawn by persons in Upper Canada, on persons in this Province, or Promissory Notes made or negotiated in Upper Canada, if protested for non-payment, shall be subject to six per centum per annum of interest from the date of the protest, or if interest be therein expressed as payable from a particular period, then from such period to the time of payment; and that in such cases of protest the expense of noting and protesting, and the postages thereby incurred, shall be allowed and paid to the holder, over and above the said interest.

Damages, &c.,
may be recovered
though not
specially men-
tioned in the
declaration.

V. And be it enacted, That in any action brought to recover the amount of any Bill, Draft, Order or Promissory Note, and the damages herein allowed, and the interest, expenses of noting and protesting, all other charges and postages incurred thereon, specified and mentioned in the preceding sections of this Act, it shall not be necessary to declare specially for such damages, expenses, charges and interest, but the same shall be allowed to the plaintiff at any trial, assessment or computation, as if the same had been specially declared for.

BILLS OF EXCHANGE ACT, (AMENDED.)

C A P. X C I V.

AN ACT TO AMEND THE LAW RESPECTING THE PROTESTING OF BILLS OF EXCHANGE AND PROMISSORY NOTES, C. W.

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS it has been and is the custom of Merchants in Upper Canada, to cause Bills of Exchange and Promissory Notes to be protested upon the same day on which such Bills or notes may have been dishonoured; and whereas it is expedient to render such custom in all cases legal; Be it therefore enacted, &c., That all Protests of Inland or Foreign Bills of Exchange or Promissory Notes, for dishonour, either by non-acceptance or non-payment, may be made on the day of such dishonour, at any time after non-acceptance, or in case of non-payment, at any time after the hour of three o'clock in the afternoon.

Protests to be
made on day of
dishonour.

men rate of
ly.

s, Drafts or
Canada, on
sory Notes
f protested
per annum
t be therein
from such
s of protest
ges thereby
and above

ion brought
ft, Order or
in allowed,
l protesting,
ed thereon,
this Act, it
n damages,
allowed to
n, as if the

ENDED.)

OF BILLS OF

st, 1851.]

e custom of
cause Bills
on the same
shonoured;
n all cases
at all Pro-
xchange or
r by non-
ay of such
ase of non-
n the after-

IL

II. And be it enacted, That a notice of such Protest shall be sent to each of the parties to such Bill or Note, and that such Notice shall be deemed and taken to have been duly served, to all intents and purposes, upon the party to whom the same shall be addressed, being deposited in the Post Office nearest to the place of making presentment of such Bill or Note, at any time during the day whereon such Protest shall be made, or the the next juridical day then following; and that the undermentioned days shall, for the purposes of this Act, be deemed and taken to be non-juridical days: videlicet, Sunday, Christmas-day, Good Friday, Easter Monday, Ash Wednesday, any day set apart by Proclamation for Fasting or Thanksgiving, the Birthday of the Reigning Sovereign, and the First day of January; and that all other days shall be deemed and taken to be juridical days.

Notice of Protest
how to be served.

Juridical and
non-juridical
days.

III. And be it enacted, That no Bill of Exchange shall be presented for acceptance on any non-juridical day; and that all Bills of Exchange and Promissory Notes whereof the third day of grace shall fall upon any non-juridical day, shall become due and payable, and shall be presented for payment upon the next juridical day before such third day of grace.

On what days
Bills and Notes
are to be present-
ed for acceptance
or payment.

IV. And be it enacted, That such Protests and Notices may be according to the forms contained in the Schedule to this Act, marked A, or to the like effect.

Forms of Protests
and Notices.

V. And be it enacted, That the fees to be taken by Notaries Public for the services mentioned in this Act, shall be such as are specified in the Schedule to this Act, marked B, and no more.

Fees to Notaries.

VI. And be it enacted, That this Act shall apply to Upper Canada only.

Extent of Act.

SCHEDULE A.

FORM OF PROTEST OF A BILL OF EXCHANGE FOR NON-PAYMENT.

On this _____ day _____, in the year of our Lord, one thousand eight hundred and fifty- _____ at the request of _____ holder of the Bill of Exchange hereunto annexed, I a Notary Public for Upper Canada, by Royal Authority duly appointed, did exhibit the said Bill unto _____ at _____, being the place where the same is payable,

payable, and speaking to *him*, did demand payment of the said Bill; to which demand *he* answered

Wherefore I, the said Notary, at the request aforesaid, have protested, and do hereby solemnly protest, as well against all the parties to the said Bill, as against all other persons whom it may concern, for all interest, damages, costs, charges, expenses and other losses suffered or to be suffered for want of payment of the said Bill. And afterwards, on the day and year mentioned in the margin, I, the said Notary Public, did serve due Notice, according to Law, of the said Presentment, Non-payment and Protest of the said Bill, upon the several parties thereto, by depositing, in Her Majesty's Post Office at _____, being the nearest Post Office to the place of the said Presentment, Letters containing such Notices, one of which Letters was addressed to each of the said parties, severally; the superscription and address of which Letters are respectively copied below, as follows, that is to say:

Notice mailed the
day of A.
D. 185 .

(Here insert the directions of the letters.)

In testimony whereof, I have hereunto set my Hand and affixed my Seal of Office, the day and year first above written.

(Signature.) L. S.

FORM OF NOTICE TO PARTIES.

To Mr. _____ (date.)

SIR,

Take notice that a Bill of Exchange dated on the _____ for the sum of £ _____ drawn by _____ on and accepted by _____, payable (three months) after the date thereof, at the Bank of _____ in _____, and endorsed by A. B. C. D. E. F., &c., was this day presented by me for payment at the said Bank, and that payment thereof was refused, and that _____ the holder of the said Bill looks to you for payment thereof. Also, take notice that the same Bill was protested by me for non-payment,

Your obedient servant,

A. B.,
Notary Public.

The above forms may be changed to suit Protests for non-acceptance or non-payment of Bills, or non-payment of Notes.

SCHEDULE B.

FEEs ON PROTESTING NOTES, &c., IN C. W.

For the Protest of any Bill or Note,	5.	D.
For every Notice,	2.	6.
	1.	3.

(See Section V.)

W
mone
certai
mone
loan o
the fi
by the
Provin
Reign
intitule
on pro
the Pro
Parlian
first ye
repeal
seventee
'for asc
'fixing
ascertain
rate of
pealed.
II. An
hereafter
the loan
of intere
contract,
liable to
minal, fo
standing.
III. Pro
enacted,
security f
far only, a
made pay
of One H

id, have pro-
ainst all the
whom it may
xpenses and
for want of
wards, on the
n, I, the said
Law, of the
id Bill, upon
 Majesty's Post
ost Office to
g such Not-
of the said
which Let-
to say :

and affixed
n.
L. S.

on and
(nths) after
n Toronto,
y presented
ent thereof
older of the
take notice
ent,

y Public.
ce or non-pay-

d.
6.
3.

USURY

USURY LAWS REPEAL ACT.

C A P. L X X X.

AN ACT TO MODIFY THE USURY LAWS.

[Assented to, 24th March, 1853.]

WHEREAS it is expedient to abolish all prohibitions and penalties on the lending of money at any rate of interest whatsoever, and to enforce to a certain extent, and no further, all contracts to pay interest on money lent, and to amend and simplify the laws relating to the loan of money at interest : Be it therefore enacted, &c., That the fifth section of the Ordinance made and passed by the Governor and Legislative Council of the Province of Quebec, in the seventeenth year of the Reign of His late Majesty King George the Third, intituled, *An Ordinance for ascertaining damages on protested Bills of Exchange, and fixing the rate of interest in the Province of Quebec*; and the sixth section of the Act of the Parliament of the Province of Upper Canada, passed in the fifty-first year of His said late Majesty's Reign, intituled, "*An Act to repeal an Ordinance of the Province of Quebec, passed in the seventeenth year of His Majesty's Reign, intituled, 'An Ordinance for ascertaining damages on protested Bills of Exchange, and fixing the rate of interest in the Province of Quebec'; also to ascertain damages on protested Bills of Exchange, and fixing the rate of interest in this Province*", be, and the same are hereby repealed.

II. And be it enacted, That no contract to be hereafter made in any part of this Province, for the loan or forbearance of money or money's worth, at any rate of interest whatsoever, and no payment in pursuance of such contract, shall make any party to such contract or payment liable to any loss, forfeiture, penalty or proceeding, civil or criminal, for usury; any Law or Statute to the contrary notwithstanding.

III. Provided always, nevertheless, and be it enacted, That every such contract and every security for the same shall be void so far, and so far only, as relates to any excess of interest thereby made payable above the rate of Six Pounds for the forbearance of One Hundred Pounds for a year, and the said rate of six per cent.

Preamble.

Sect. 5 of Ordinance of Quebec, 17 Geo. III., c. 3, and s. 6 Act of Upper Canada 51 Geo. III., c. 9 repealed.

Penalties for usury, abolished.

Contracts and securities to be void as regards excess of interest above six per cent.

cent. interest, or such lower rate of interest as may have been agreed upon, shall be allowed and recovered in all cases where it is the agreement of the parties that interest shall be paid.

Act not to apply
to Banks, &c.

IV. And be it enacted, That nothing in this Act shall be construed to apply to any Bank or Banking Institution or to any Insurance Company, or to any Corporation or Association of persons heretofore authorized by law to lend or borrow money at a rate of interest higher than six per centum per annum.

CURRENCY AMENDMENT ACT.

CAP. CLVIII.

AN ACT TO REGULATE THE CURRENCY.

[Assented to, 14th June, 1853.]

Preamble.

WHEREAS it is desirable to adopt a Currency for this Province, which may hereafter be advantageously made common to all the Provinces of British North America, as being simple and convenient in itself and well calculated to facilitate their commercial intercourse with other parts of this continent: Be it therefore enacted, &c., That

Acts 4 & 5 Vict.,
c. 93.

Province, and

18 & 14 Vict.,
c. 9.

passed in the

14 & 15 Vict., c.
47, and

14 & 15 Vict., c.
46, repealed.

Proviso.

the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to regulate the Currency of this Province*, and the act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and intituled, *An Act to alter the rate at which certain Silver Coins shall be a legal tender*, and the Act Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to provide for the introduction of the Decimal System into the Currency of this Province, and otherwise to amend the laws relative to the Currency*, and the Act passed in the Session last aforesaid, and intituled, *An Act to extend the Provisions of the Currency Act to certain Gold and Silver Coins coined after the periods in the said Act limited*, shall be repealed from and after the time when this Act shall come into force: Provided always, that all Acts, parts of Acts and provisions

y have been
cases where
be paid.

g in this Act
nk or Bank-
ny Corpora-
d by law to
than six per

UT.

ne, 1853.]

t a Currency
hereafter be
s of British
n itself and
course with
l, &c., That
n the fourth
Reign, and
ncy of this
ne thirteenth
s Reign, and
which certain
and the Act
eenth years
l, An Act to
imal System
nd otherwise
ct passed in
led, An Act
ncy Act to
ed after the
m and after
into force:
of Acts and
provisions

provisions of Law repealed by the said Acts or any of them, shall remain repealed; And provided also that all offences against the said Acts or any of them, committed before this Act shall come into force, may be tried, punished and otherwise dealt with as if this Act had not been passed.

Proviso.

II. And be it enacted, That the denominations of money in the Currency of this Province, shall be pounds, dollars, shillings, pence, cents and mills: the pound, shilling and penny shall have, respectively, the same proportionate values as they now have, the dollar shall be one-fourth of a pound, the cent shall be one-hundredth of a dollar and the mill one-tenth of a cent; and in any statement as to money or money value in any agreement, indictment or legal proceeding, the same may be mentioned and described in pounds, shillings and pence, or in dollars, cents and mills, or in any or either of such denominations, as may be considered expedient.

Legal denomina-
tions of current
money.

III. And be it enacted, That the Pound Currency shall be held to be equivalent to and to represent one hundred and one grains, and three hundred and twenty-one thousandths of a grain, Troy weight, of Gold of the Standard of fineness now prescribed by Law for the Gold Coins of the United Kingdom; and the Dollar Currency shall be held to be equivalent to and to represent one-fourth part of the weight aforesaid of Gold of the said Standard; and any Gold Coins of the standard of fineness aforesaid which Her Majesty shall direct to be struck at the Royal Mint, shall, by such names as shall be assigned to them in any Proclamation declaring them lawful money of this Province, pass current and be a legal tender for sums to be mentioned in such Proclamation and proportionate to their respective weights, subject to the like allowance for remedy as British Gold Coins.

Pound currency
defined.

Dollar currency.
of the said

Certain Gold
Coins to be a
legal tender.

Remedy.

IV. And be it enacted, That the Pound Sterling shall be held to be equal to one pound, four shillings and four pence, or four dollars, eighty-six cents and two-thirds of a cent, Currency, and any British Sovereign of lawful weight, shall pass current and be a legal tender for that sum; and the other Gold Coins of the United Kingdom shall, while of lawful weight, pass current and be a legal tender for sums in currency, equal, according to the proportion aforesaid, to their Sterling value.

Pound sterling.

British Gold
Coins.

V. Provided always and be it enacted, That nothing in this Act shall affect the meaning to be affixed to the words "Sterling," "Sterling Money

Proviso:
as to meaning of
word "Sterling"

In contracts, &c. made before this Act shall be in force.

of Great Britain," or other words of like import in any Law in force in this Province, or in any part thereof, at the time when the Act herein first above cited and repealed came into force, or in any contract or agreement then made therein, but any such law, contract or agreement shall be construed according to the intention of the Legislature or of the parties who made the same; but in any law, contract or agreement made in this Province after the said Act came into force, or to be made after this Act shall come into force, the Pound Sterling shall be understood to have the value in Currency hereby assigned to the British Sovereign.

Public accounts to be kept in such denominations as Her Majesty shall direct.

VI. And be it enacted, That the Public Accounts of this Province shall be kept in such of the denominations of current money of this Province hereinbefore mentioned, as Her Majesty shall from time to time direct, but that all sums of money and accounts may be legally mentioned, described and stated in any of the said denominations.

Silver coins struck by order of Her Majesty to be a legal tender.

VII. And be it enacted, That such Silver Coins as Her Majesty may direct to be struck at the Royal Mint, of the fineness now fixed by law for the silver coins of the United Kingdom, and of weights bearing respectively the same proportion to the value to be assigned to such coins in this Province, which the weights of the silver coins of the United Kingdom bear to the value assigned to them in the United Kingdom, shall, by such names as shall be assigned to them by Her Majesty in Her Royal Proclamation declaring them lawful money of this Province, pass current and be a legal tender at the rates assigned to them respectively in such Proclamation.

Silver Coins of United Kingdom.

VIII. And be it enacted, That until it shall be otherwise ordered by Her Majesty's Royal Proclamation, the Silver Coins of the United Kingdom, while lawfully current therein, shall pass current in this Province for sums in currency, equal, according to the proportion hereinbefore fixed, to the sums in sterling for which they respectively pass current in the United Kingdom, but after the time to be fixed for that purpose in any such Proclamation as aforesaid, they shall cease to be current money in this Province; and no other Silver Coins than those declared to be so by this Act shall be a legal tender or current money in this Province.

No Silver Coins to pass except those made legal by this Act.

Amount of Silver in any one payment limited.

IX. Provided always, and be it enacted, That the Silver Coins mentioned in either of the two next preceding sections, shall not be a legal tender to the amount of more than Two Pounds Ten Shillings currency, in

ke import in
in any part
herein first
contract or
contract or
ntion of the
but in any
ter the said
shall come
to have the
ereign.

Public Ac-
in such of
his Province
shall from
counts may
of the said

ilver Coins
ruck at the
by law for
om, and of
ne value to
weights of
ue assigned
as shall be
oclamation
current and
ectively in

it shall be
yal Procla-
Kingdom,
s Province
on herein-
respectively
ime to be
amation as
money in
oins than
be a legal

eted, That
f the two
gal tender
currency,
in

in any one payment: and the holder of the notes of any person or persons or body corporate, to the amount of more than Two Pounds Ten Shillings currency, shall not be bound to receive more than that amount in such Silver Coins in payment of such notes if presented for payment at one time, although each or any of such notes be for a less sum.

X. And be it enacted, That the Copper Coins of the United Kingdom, shall, while lawfully current therein, pass current and be a legal tender in this Province, to the amount of One Shilling currency and no more in any one payment, at the following rates, that is to say: the Copper Penny for two Cents, the Copper Half Penny for one Cent, and any other subdivisions of the said Copper Penny for proportionate sums: Provided always that any Copper Coins of like weights with those aforesaid respectively, which Her Majesty may direct to be struck for the purpose, shall pass current and be a legal tender in this Province, at the like rates and to the like amount in any one payment: and that if such such Copper Coins be struck, Her Majesty may, if she see fit, declare by Proclamation that the Copper Coins of the United Kingdom shall not be lawful money of this Province after a day to be appointed in such Proclamation.

Copper Coins of
United Kingdom.

Proviso: Her
Majesty may
order other
Copper Coins to
be struck.

XI. And be it enacted, That the Gold Eagle of the United States of America, coined before the first day of July, one thousand eight hundred and thirty-four, and weighing eleven penny-weights, six grains, Troy weight, shall pass current and be a legal tender in this Province for ten Dollars and sixty-six Cents and two-thirds of a Cent or two Pounds thirteen Shillings and four pence, currency, and the Half Eagle of like date and proportionate weight, for one-half the said sum: and the Gold Eagle of the said United States, coined after the day last mentioned, and before the first day of January, one thousand eight hundred and fifty-two, or after the said day, but while the standard of fineness for Gold Coins then fixed by the laws of the said United States shall remain unchanged, and weighing ten penny-weights, eighteen grains, Troy weight, shall pass current and be a legal tender in this Province for ten Dollars or two pounds ten shillings currency: and the Gold Coins of the said United States, being multiples or halves of the said Eagle, and of like date and proportionate weight, shall pass current and be a legal tender in this Province for proportionate sums.

Rates at which
American Gold
Coins shall pass.

XII. And be it enacted, That Her Majesty may at any time declare by Proclamation, that any or all of any other Gold Coins of the said United States or of any other Foreign Nation or State

Other foreign
Gold Coins may
be made current
by Proclamation.

shall pass current and be a legal tender in this Province, at rates in Currency to be assigned to them respectively in such Proclamation, when of the weights to be also assigned therein, such rates being proportionate to the quantity of pure gold in such coin, reckoning ninety-two grains, and eight hundred and seventy-seven thousandths of a grain of pure gold as equivalent to one pound currency.

Punishment of persons counterfeiting Coin, or uttering counterfeit Coin.

XIII. And be it enacted, That if any person shall colour or gild, or case over with gold or silver, or with any wash or materials producing the colour of gold or silver, any coin of coarse gold or of coarse silver, or of base metal, resembling any coin made or declared to be current by this Act, or shall make or cause to be made, or shall buy, sell or procure for himself or for another, or shall knowingly bring and import, or cause to be brought and imported into this Province, any forged, false or counterfeit gold, silver or copper coin, like to any of the gold, silver or copper coin made or declared by this Act to be lawfully current, or any coin of coarse gold or of coarse silver, or of base metal coloured gilded or cased over with gold or silver, or with any wash or materials producing the colour of gold or silver, and resembling any such coin, or any piece of gilded silver resembling any such coin, or shall utter or attempt to utter, or tender in payment to any person or persons (as being any of the gold, silver or copper coins hereby made or declared to be current money,) any false or counterfeit piece, counterfeited to any of the gold, silver or copper coins made or declared to be current by this Act, or to any of the higher or lower denominations thereof, knowing the same to be false or counterfeit, such person shall be guilty of a misdemeanor, and on being duly convicted shall be liable to be imprisoned and kept at hard labour in the Provincial Penitentiary for not less than three nor more than fourteen years, in the discretion of the court before which the conviction shall be had; and if such person shall afterwards offend in like manner, he or she shall for such second or for any subsequent offence, be deemed guilty of felony, and on being thereof duly convicted, shall be liable to be imprisoned in the said Penitentiary for life, or for any term not less than fourteen years, in the discretion of the Court before which the conviction shall be had.

Punishment of persons making dies, stamps, &c., for counterfeiting or having them in possession.

XIV. And be it enacted, That if any person shall form, make, cut, sink, stamp, engrave, repair or mend, or shall assist in forming, making, cutting, sinking, stamping, engraving, repairing or mending, or shall have in his or her possession, except for some known and lawful purpose, any false or counterfeit coin, counterfeit to any coin lawfully current under the authority of this Act, or any die, press, tool or instrument, or metal or material

Province, at
vely in such
ned therein,
pure gold in
undred and
s equivalent

person shall
or silver, or
the colour of
or of coarse
y coin made
or cause to
for another,
brought and
terfeit gold,
r or copper
rent, or any
tal coloured
any wash or
resembling
g any such
payment to
er or copper
, any false
old, silver or
is Act, or to
knowing the
e guilty of a
liable to be
Penitentiary
ears, in the
shall be had;
anner, he or
, be deemed
ted, shall be
life, or for
etion of the

any person
rave, repair
ing, cutting,
or mending,
, except for
terfeit coin,
authority of
tal or mate-
rial

rial of any kind, used, constructed, devised, adapted or designed for the purpose of counterfeiting or imitating any Coin which shall be lawfully current under the authority of this Act, such person shall be guilty of a misdemeanor, and shall be liable to punishment accordingly; and the proof that such false or counterfeit coin, or such die, press, tool or instrument, metal or material was formed, made, cut, sunk, stamped, engraved, repaired or mended by or was in the possession of such person for some lawful purpose, shall lie upon him or her.

XV. And be it enacted, That it shall be lawful for any one Justice of the Peace on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any person or persons is or are or hath or have been concerned in making, counterfeiting or imitating any such Coin as aforesaid, by warrant under the hand of such Justice of the Peace, to cause the dwelling house, room, work-shop, out-house or other building, yard, garden, ground or other place belonging to such suspected person or persons, or where such suspected person or persons shall be suspected to carry on any such making, counterfeiting or imitating, to be searched for any such counterfeit Coin; and if any such Coin or any such die, press, tool or instrument, metal or material as aforesaid shall be found in the possession or custody of any person or persons whomsoever, not having the same for some lawful purpose, it shall and may be lawful to and for any person or persons discovering the same, to seize, and he or they are hereby authorized and required to seize and carry the same forthwith before a Justice of the Peace having jurisdiction within the locality in which the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any such offence as aforesaid, in any Court of competent jurisdiction, and the same after being so produced in evidence, shall by order of the Court be defaced or destroyed, or otherwise disposed of as the Court shall direct.

Power to issue warrants to search for counterfeit Coin, coin- ing Tools, &c.

XVI. And be it enacted, That any person to whom any pretended Gold, Silver or Copper Coin shall be tendered in payment, which shall by the Stamp, Impression, Colour or Weight thereof, afford reason to suspect that the same is false or counterfeit, may cut or break such Coin, and if the same shall be counterfeit, the person who tendered it shall bear the loss, otherwise the person who shall have cut or broken it shall receive it for a sum proportionate to its weight; and if any question shall arise whether such Coin be counterfeit, it shall be determined by any Justice of the Peace, who, if he entertain any doubt in that behalf, may summon

Counterfeit Coin tendered may be broken, &c.

three skilful persons, the decision of a majority of whom shall be final.

Counterfeit Coin
produced in Court
to be broken, &c.

XVII. And be it enacted, That if any false or counterfeit Coin shall be produced in any Court of Law, the Court shall order the same to be cut in pieces in open Court or in the presence of a Justice of the Peace, and then delivered to or for the lawful owner thereof, if any such lawful owner there be claiming the same.

Wilfully tender-
ing light Coin, to
be a misdemeanor

XVIII. And be it enacted, That any person who shall knowingly utter, attempt to utter or offer in payment, as being lawfully current, any Gold Coin of less than its lawful weight, or shall diminish the weight of any such Coin with intent to utter or offer it in payment as lawfully current, shall be guilty of a misdemeanor, and on being duly convicted shall be liable to be punished accordingly.

Evidence in cases
of offences against
this Act.

XIX. And be it enacted, That on any trial for any offence under this Act, it shall not be necessary to call any Officer of the Mint or other person employed in producing the lawful Coin, in order to prove any counterfeit to be such, but the fact may be proved by any evidence which shall be satisfactory to the Jury trying the case.

Commencement
of Act.

XX. And be it enacted, That this Act shall have force and effect upon, from and after the day to be appointed by Her Majesty for that purpose, by Proclamation, and not before.

LAW OF EVIDENCE, (C. W.)

C A P. X I X.

AN ACT TO REPEAL THE ACTS THEREIN MENTIONED, AND TO IMPROVE
THE LAW OF EVIDENCE IN CANADA WEST.

[Assented to, 10th November, 1852.]

Preamble.

WHEREAS the inquiry after truth in Courts of Justice is often obstructed by incapacities created by Laws, and it is desirable that full information as to the facts in issue, both in Criminal and Civil cases, should be laid before the persons who are appointed to decide upon them,

om shall be

ny false or
ny Court of
o be cut in
the Peace,
if any such

person who
or offer in
y Gold Coin
weight of
payment as
d on being
gly.

ny trial for
t be neces-
ther person
prove any
d by any
g the case.

shall have
e day to be
urpose, by

IMPROVE

, 1852.]

A Courts of
capacities
ation as to
should be
pon them,
and

and that such persons should exercise their judgment on the credit of the witnesses adduced and on the truth of their testimony: Be it therefore enacted, &c., That no person offered as a witness shall hereafter be excluded by reason of incapacity from Crime or interest, from giving evidence, either in person or by deposition, according to the practice of the Court, on the trial of any Issue joined, or of any Matter or Question, or on any Inquiry arising in any Suit, Action or Proceeding, Civil or Criminal, in any Court, or before any Judge, Jury, Sheriff, Coroner, Magistrate, Officer or Person having by Law or by consent of parties authority to hear, receive and examine evidence, but that every person so offered, may and shall be admitted and compellable to give Evidence on Oath, or solemn affirmation in those cases wherein affirmation is by Law receivable, notwithstanding that such person may or shall have an interest in the matter in question or in the event of the trial of any Issue, Matter, Question or Inquiry, or of the Suit, Action or Proceeding in which he is offered as a witness, and notwithstanding that such person offered as a witness may have been previously convicted of any crime or offence: Provided that this Act shall not render competent or authorize or permit any party to any suit or proceeding, individually named in the Record, or any Plaintiff, Lessor of the Plaintiff or Tenant of premises sought to be recovered in Ejectment, or the Landlord or other person in whose right any defendant in *replevin* may make cognizance, or any person in whose immediate or individual behalf any Action may be brought or defended either wholly or in part, or the husband or wife of such persons respectively, to be called as a witness on behalf of such party, but such party may in any Civil proceeding be called and examined as a witness in any suit or action at the instance of the opposite party: Provided always,

Persons offered as witnesses not to be excluded for certain causes.

Proviso: parties to suits not to be witnesses: unless called as such by the opposite party.

Proviso.

II. And be it enacted, That whenever any party in such proceeding shall desire to call the opposite party as a witness, he shall either subpœna such party or give to him or his Attorney at least eight days' notice of the intention to examine him as a witness in the cause, and if such party shall not attend on such notice or Subpœna, such non-attendance shall be taken as an admission *pro confesso* against him in any such Suit or Action, unless otherwise ordered by the Court or Judge, in which or before whom such examination is pending, and a general finding or Judgment may be had against such party thereon, or the Plaintiff may be non-suit or the proceedings in such

A party to any civil suit may be summoned as a witness by the opposite party: and how: Penalty on such party not attending.

such Action or such Suit, may be postponed by such Court or Judge, on such terms as such Court or Judge shall see fit to impose.

Commission when the party to be examined resides out of Canada West: penalty if such party refuse to attend.

III. And be it enacted, That whenever a party to any such suit or action is resident out of Upper Canada, it shall be lawful for the Court in which such suit or action is brought, or any Judge in Chambers, at the instance of the opposite party, to issue a Commission for the examination of such party in the same manner as a Commission may be issued from any of the Superior Courts for the Examination of Witnesses; and if such party shall refuse to attend before such Commissioners, such refusal, proved by affidavit or otherwise, to the satisfaction of a Judge of the Court in which the suit is had, shall authorize a verdict or judgment to pass against such party, or he shall become non-suit: Provided that no such Commission shall be issued unless the party requiring such Commission shall state under oath, by affidavit, the facts intended to be proved before such Commission, and then the said Judge after being satisfied that such Commission is applied for in good faith, and not for purposes of delay, may issue such Commission.

Party charged with a criminal offence, not to give evidence for or against himself, &c.

IV. And be it enacted, That nothing herein contained shall render any person, who, in any proceeding, is charged with the Commission of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall, in any such proceeding, render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband, or shall, in any civil proceeding, render any person compellable to answer any question tending to criminate himself or herself, or to subject him or her to any prosecution for any penalty.

Probate of Will of a person dying out of C. W., but in Her Majesty's possessions, may be received in evidence.

V. And be it enacted, That whenever any person has died or shall hereafter die in any of Her Majesty's possessions out of Upper Canada, having made a will sufficient to pass real estate in Upper Canada, and whereby any such estate shall be devised, charged or affected, and such Will shall have been duly proved in any Court having the proof and issuing probate of wills in any of such possessions, and shall remain filed in such Court, the production of the Probate of such Will or a certificate of the Judge, Registrar or Clerk of such Court, that the original is filed and remains in such Court, and purports to have been executed before two witnesses, shall be sufficient *prima facie* evidence in any Court of Law or Equity in Upper Canada, in

h Court or
see fit to

er a party
t of Upper
t in which
Judge in
posite party,
on of such
ssued from
Witnesses;
ommission-
ne satisfac-
l, shall au-
party, or ha
t no such
such Com-
intended to
said Judge
for in good
ommission.

herein con-
in any pro-
ion of any
ishable on
pellable to
all, in any
compellable
competent
usband, or
pellable to
r herself, or
lty.

er any per-
any of Her
anada, hav-
l estate in
estate shall
have been
ng probate
led in such
certificate
he original
have been
prima facie
Canada, in
any

any proceeding concerning such Real Estate, of such Will and the contents thereof, and of the same having been executed so as to pass Real Estate, without the production of the original Will: Provided always, that notice of the intention to use such Probate or Certificate in the place of the original Will, shall be given to the opposite party in any such proceeding one month before the same shall be so used: And provided also, that such Probate or Certificate shall not be used if, upon cause shewn before any such Court of Law or Equity, or any Judge thereof, such Court or Judge shall find any reason to doubt the sufficiency of the execution of such Will to pass such Real Estate as aforesaid, and shall make a rule or order disallowing the production of such Probate.

Proviso: notice
to be given.

Proviso: if the
Judge see cause
to doubt suffi-
ciency of execu-
tion.

VI. And be it enacted, That the production of the certificate in the next preceding section mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the Judge, Registrar or Clerk, without any proof of his appointment, authority or signature.

Certificate to be
prima facie evi-
dence of facts
therein stated.

VII. And be it enacted, That whenever in any suit or action pending or hereafter to be brought, in either of Her Majesty's Superior Courts of Law or Equity in Upper Canada, any party is desirous of proving the Execution of the Will of any person, who at the time it shall be necessary to give such proof, may be dead, the production of the Probate of such Will or of Letters of Administration with the Will annexed, shall be received and taken as *prima facie* evidence of the due execution of such Will and of the contents thereof, in the same manner as if the original Will had been produced, and the execution thereof proven by the subscribing witnesses thereto; subject, nevertheless, to the provisos hereinbefore in the fifth section of this Act contained, as to notice to the opposite party of the intention to use such Probate or Letters, in place of the original Will, and to any order that may be made by the Judge or Court disallowing the production of the same as therein mentioned.

Probate of Will
receivable in
evidence.

VIII. And be it enacted, That whenever any action or other legal proceeding shall henceforth be pending in any of the Superior Courts, or in any County Court in Upper Canada, such Court and each of the Judges thereof, in vacation, may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application, to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceeding,

Judge may com-
pel a party to
allow opposite
party to inspect
documents, &c.

ceeding, and if necessary, to take examined copies of the same, in all cases in which previous to the passing of this Act a discovery might have been obtained by filing a Bill, or by any other proceeding in a Court of Equity, at the instance of the party so making application as aforesaid to the said Court or

Proviso.

Judge : Provided also that such application may be made to and granted by a Judge of a County Court in suits depending in the said Superior Courts, in the same manner and under such circumstances as is provided for similar applications in the said Courts, by the thirty-fifth section of the Act passed in the twelfth year of Her Majesty's Reign, intituled,

Act 19 Vict. c. 63.

An Act to make further provision for the administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes.

Copies of books or documents to be evidence in certain cases.

IX. And be it enacted, That whenever any book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no Statute exists which renders its contents provable by means of a copy, any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, or before any person now or hereafter having by law or by consent of parties, authority to hear, receive and examine evidence, provided it be proven to be an examined copy or extract, or provided it purport to be signed and certified as a true copy or extract by the Officer to whose custody the original is entrusted, and which Officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding sixpence for every folio of one hundred words.

Officer having charge thereof, to give certified copies.

Punishment of Officers giving false certificates.

X. And be it enacted, That if any Officer authorized or required by this Act, or by any law or usage now in force in Upper Canada, to furnish any certified copies or extracts, shall wilfully certify any document as being a true copy or extract, knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable upon conviction to imprisonment for any term not exceeding Eighteen months.

Punishment of persons forging documents, &c., or using them knowing them to be forged.

XI. And be it enacted, That if any person shall forge any seal, stamp or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp or signature thereto, knowing to be false or counterfeit, he shall be guilty of

f the same,
this Act a
, or by any
ance of the
d Court or
cation may
of a County
in the same
for similar
tion of the
n, intituled,
the adminis-
of an ad-
a Court of
poses.

er any book
ure as to be
action from
ists which
, any copy
vidence in
hereafter
ar, receive
examined
d certified
to whose
ich Officer
ified copy
reasonable
um for the
e hundred

cer autho-
ny law or
to furnish
any docu-
e same is
be guilty
risonment

erson shall
document
all tender
a false or
to, know-
guilty of
felony,

felony, and shall upon conviction be liable to imprisonment in the Provincial Penitentiary for any term not exceeding ten years, or to imprisonment in any Goal or House of Correction with hard labour, for any term not exceeding one year or less than two months: And whenever any such document shall have been admitted in evidence by virtue of this Act, the Court or the person who shall have admitted the same, may, at the request of any party against whom the same is admitted in evidence, direct that the same shall be impounded and 'e kept in the custody of some Officer of the Court or other proper person, for such period and subject to such conditions as to the said Court or person shall seem meet; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted and tried, and if convicted, sentenced, and his offence may be laid and charged to have been committed in the County or place in which he shall be apprehended or be in custody; and every accessory before or after the fact to any such offence, may be dealt with, indicted and tried, and if convicted, sentenced, and his offence laid to have been committed in any County or place in which the principal offender may be tried.

Document may be impounded on request of party against whom it may have been used.

When offenders may be tried.

XII. And be it enacted, That whenever in any legal proceedings whatever, legal proceedings may be set out, it shall not be necessary to specify that any particular person or persons who acted as Jurors had made affirmation instead of oath, but it may be stated that they served as Jurymen, in the same manner as if no Act had passed for enabling persons to serve as Jurymen without oath.

Certain allegation not necessary in setting out legal proceedings.

XIII. And be it enacted, That the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to improve the Law of Evidence in Upper Canada*, and the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, An Act to improve the Law of Evidence in Upper Canada*, shall be and are hereby repealed: Provided always, that all things lawfully done under the said Acts or either of them, shall remain as valid and effectual to all intents and purposes whatsoever as if the said Acts respectively were not repealed, and the said Acts shall be held and construed to extend to all actions commenced between the thirtieth day of August, in the year of our Lord one thousand eight hundred and fifty-one, and the passing hereof.

Act 12 Vict. c. 70, and

14 & 15 Vict. c. 66, repealed.

Proviso.

XIV. And be it enacted, That this Act shall apply only to Upper Canada, except in so far only as herein otherwise expressly provided.

Extent of Act.

FOREIGN JUDGMENTS ADMISSION (C. E.)

CAP. CXCVIII.

AN ACT TO FACILITATE THE ADMISSION IN EVIDENCE OF FOREIGN JUDGMENTS AND CERTAIN AFFIDAVITS AND OTHER DOCUMENTS, AND OTHERWISE TO IMPROVE THE LAW OF EVIDENCE IN CANADA EAST.

[Assented to, 14th June, 1853.]

Preamble.

WHEREAS it would greatly diminish the expense of legal proceedings and prove highly beneficial to the advancement of justice in Lower Canada, if certain Judgments and other documents were admitted in evidence without further proof thereof as now required by law: Be it therefore enacted, &c., That an Exemplification of any judgment, decree or other judicial proceeding of any Court in any of Her Majesty's Dominions, or in any Foreign Country, under the seal of the Court in which such judgment or other judicial proceeding was recovered, made or taken, or under the signature of the Prothonotary, Clerk or Custodian of the record of such Judgment, decree, or other judicial proceeding, shall be received whenever offered in any Court of Justice in Lower Canada, as *prima facie* evidence of such judgment, decree or proceeding, unless proof to the contrary be made.

Exemplification
and Probates of
Wills to be received
as *prima facie*
evidence.

II. And be it enacted, That an Exemplification of any Will executed in Her Majesty's Dominions or in any Foreign Country, under the seal of any Court wherein the original Will may be of record, or under the signature of the Judge, Surrogate or Clerk of such Court, or of the Custodian of such Will, shall be taken and received, whenever offered in any Court in Lower Canada, as *prima facie* evidence of the execution of such Will; and the Probate of any such Will, under the seal of any Court of competent jurisdiction, shall be received as *prima facie* evidence of the contents thereof, and also of the death of the Testator, unless proof to the contrary be made.

Certificates of
marriages, &c., out
of C. E. to be received
as *prima facie*
evidence.

III. And be it enacted, That a Certificate of the Marriage of any person married, or of the Baptism of any person baptised, or of the Burial of any person interred beyond the limits of Lower Canada, under the hand of the Clergyman, Priest, or Minister, who shall have officiated at such Marriage, Baptism or Burial,

N (C. E.)

FOREIGN JUDG.
S, AND OTHER
ST.

June, 1853.]

diminish the
s and prove
wer Canada,
mitted in evi-
by law : Da
emplification
cial proceed-
s Dominions,
e seal of the
ceeding was
of the Protho-
ment, decree,
ever offered
cie evidence
f to the con-

emplification
s Dominions
seal of any
be of record,
lark of such
ken and re-
Canada, as
ill; and the
rt of compe-
dence of the
tator, unless

ertificate of
l, or of the
f the Burial
its of Lower
or Minister,
n or Burial,
or

16 Vict. FOREIGN JUDGMENTS ADMISSION, (C. E.) Cap. 198, 1853.

or of the Public Officer before whom such Marriage may have been contracted, or an extract from any Register kept for the registration of any such Marriages, Baptisms or Burials, certified by the Clergyman, Priest, Minister or Public Officer, being the legal Custodian thereof, whenever offered in any Court of Justice in Lower Canada, shall be taken and received as *prima facie* evidence of the contents thereof.

IV. And be it enacted, That it shall not be necessary to prove any Seal or the Signature or Authority of any Officer affixed to any Exemplification, Probate, Certificate or Extract which, by the foregoing Sections, is made *prima facie* evidence of the facts therein stated, but the production of any such Document purporting to be sealed with such Seal and signed by such Officer, shall be *prima facie* evidence of such Seal and Signature, and of the authority of the Officer purporting to have affixed such Seal to such Document or to have signed the same.

Seal or Signature
to any such Do-
cument need not
be proved.

V. And be it enacted, That it shall be competent to any party interested in any such Will, upon the production of an Exemplification of the same, and of the Probate thereof, if there be any, to the Superior Court for Lower Canada, or any of the Judges thereof, to require and have the same recorded in the Office of the Prothonotary of the said Court in any one of the Districts of Lower Canada; and when so recorded, a copy thereof, certified by the Prothonotary of the said Court, shall have the same force and effect as such Exemplification.

Exemplification
and Probate may
be recorded in C.
E., and certified
copies thereof
shall be authentic.

VI. And be it enacted, That the Seal of any Foreign State, and the Certificate of the Secretary or any one of the Secretaries of any such State, or of the Executive Government thereof, whenever offered in any Court of Justice in Lower Canada, to establish the existence and competency of any Court, Corporate Body, Clergyman, Priest or Minister, Office or Officer, its or his identity in relation to any public document, or any other matter, shall be deemed authentic without proof thereof, and shall be taken and received as *prima facie* evidence of the fact intended to be established thereby, whether such State be a separate Sovereignty, or be one of the United States of America, or of any other Federation or Union of several States.

Seals and Certifi-
cates of Foreign
States, &c., to be
prima facie
evidence.

VII. Provided always, and be it enacted, That it shall be competent to any party to a suit or proceeding to deny the truth of any of the said Exemplifications, Probates, Certificates or Extracts, by doing so in writing before the close of the *En-quête* of the party who may produce the same, in which case it shall

Any party may
deny the truth of
the said Exem-
plifications, &c.
As to costs in such
case.

shall be incumbent upon such party to prove the contents of such Exemplification, Probate, Certificate or Extract in the manner now required by law; but in the event of such Exemplification, Probate, Certificate or Extract being duly proved by a commission or otherwise to be correct and true, the costs of such proof to be taxed by the Judge, shall and may, in the discretion of the Court or Judge before whom such suit or proceeding is had, be ordered to be paid by the party who may have denied the truth thereof as aforesaid, whatever may be the final judgment in the cause; And provided further, that whenever the truth of any of the said Exemplifications, Probates, Certificates or Extracts, shall be denied as aforesaid, security for the costs attending the execution of a commission to prove the same, shall be given to the satisfaction of the Court or Judge by the party denying the truth of the same, and within the time and for such amount as the said Court or Judge shall direct.

Costs.

Proviso: Security for costs to be given in such case, by the party denying the truth of such signature, &c.

EJECTMENT ACT, (C. W.)

CAP. CXIV.

AN ACT TO ALTER AND SETTLE THE MODE OF PROCEEDING IN THE ACTION OF EJECTMENT.

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS it is expedient to abolish all fictions of law in actions of Ejectment, and to place such actions, as nearly as may be, on the same footing as other actions between parties; and it is also expedient to prevent the multiplication of suits for the purpose of recovering costs or mesne profits where parties recover the possession of land in such actions, and to enable such parties to recover such mesne profits and costs, in any suit brought for the recovery of lands: Be it therefore enacted, &c., That all actions of Ejectment shall be commenced by Writ of Summons, in the same manner as other actions, in which the names of all the persons claiming the property shall appear as Plaintiffs, and the person in actual possession, or in case of a vacant possession, the person last in actual possession, shall appear as Defendants, and such Writ may be in the following form, and shall bear *teste* of the day on which it is issued, and be in force for four calendar months thereafter:

Mode of commencing actions of ejectment.

ents of such
the manner
mplication,
commission,
the costs of
all and may,
such suit or
ty who may
r may be the
ided further,
said Exem-
tracts, shall
or the costs
sion to prove
ourt or Judge
thin the time
all direct.

IN THE ACTION

gust, 1851.]

o abolish all
of Ejectment,
on the same
also expedient
of recovering
possession of
recover such
e recovery of
c., That all
nced by Writ
other actions,
property shall
session, or in
al possession,
the following
ssued, and be

County

County of }
to wit : } Victoria, by the Grace of God,
Great Britain, and Ireland, Queen, Defender of the Faith.
[SEAL.] To A. B. of

We command you that you do appear before us in our Court of Queen's Bench (or Common Pleas, as the case may be) within sixteen days after the service hereof, to answer to C. D., of , in the County of , Yeoman, in an action of Ejectment, in which action the said C. D. claims to recover certain premises, of which it is said you are in possession, which premises consist of (*describe the premises particularly*), and you are hereby required to enter your appearance in the office of the (Clerk of the Crown, or Deputy Clerk of the Crown, (*as the case may be*), in and for the County of at , in the said County, at the suit of the said C. D., for your defence to the whole of the said property, or such part thereof as you may be advised, or in default of such appearance you will be turned out of possession of the said property. Herein fail not.

Witness, &c. (*to be tested in the usual manner.*)

II. And be it enacted, That the said Writ of Summons shall be served in the same manner as a Service, &c.
declaration in Ejectment is at present served, and in case of a vacant possession, by posting a copy thereof upon the door of the dwelling house (if any) or on some other conspicuous part of the property, and the persons named as Defendants in the Writ, or any of them, or any person having an interest in the land shall be allowed to appear within the time appointed, and also any other person shall be allowed to appear on filing an Affidavit in the office from which the Writ issued, that at the time of action brought he was and still is in possession of the property, either by himself or his tenants; Provided always, Proviso.
that the Court or a Judge shall, on cause shewn, have power to strike out or confine defences set up by persons not in possession by themselves or their tenants.

III. And be it enacted, That any person appearing shall be at liberty to limit his defence to a part Limiting
only of the property mentioned in the Writ, defence, &c.
describing that part with reasonable certainty, in a notice entitled in the Court and cause, and signed by the party appearing or his Attorney, to be filed and served within four days after appearance, upon the attorney whose name is endorsed on the Writ, if any, and if none, then upon the Plaintiff: Provided
always, that if the description of the premises in Proviso.
any Writ or notice be not sufficiently certain, the Court or a Judge, or the Judge of the County Court of the County in which
the

the action is brought, may order better particulars of the land claimed or defended to be delivered.

Appearance without limiting defence.

IV. And be it enacted, That an appearance without a notice, confining the defence to part, shall be considered as a defence for the whole property claimed.

Default of appearance, &c.

V. And be it enacted, That if no appearance shall be entered within the time appointed, or if an appearance be entered, but the defence be limited to part only, the Plaintiffs shall be at liberty to sign a judgment that the person whose title is asserted in the Writ shall recover possession of the property, or of the part thereof to which the defence does not apply; which judgment may be in the form in the Schedule A, to this Act.

If an appearance be entered.

VI. And be it enacted, That in case an appearance shall be entered, the case shall be at once considered at issue, and the record for trial shall be made up, setting forth the Writ, stating the appearance with its date, and setting forth the notice limiting the defence, if any, of each of the persons appearing, so that it may appear for what part defence is made, and also setting forth a Plea in the form of the Schedule B, to this Act, which shall be the only Plea allowed, and the remainder of the record being made up as in other actions.

Special case may be stated.

VII. And be it enacted, That a special case in any such action may be stated in the same manner as at present, and if no special case be agreed to, the parties may proceed to trial in the same manner as in other actions, and the question at the trial shall be, except in the cases hereinafter mentioned, whether the statement in the Writ of the title of claimants is true or false, and if true, then which of the claimants is entitled; but the Jury may find a special verdict as at present.

Finding for claimants.

VIII. And be it enacted, That upon a finding for the claimants, judgment may be signed, and execution issue for the recovery of possession and costs, as at present in the action of Ejectment, and the said judgment having the same and no other effect than at present.

Finding for defendants.

IX. And be it enacted, That upon a finding for the Defendants, or any of them, a judgment may be signed and execution issue against the claimants named in the Writ.

Joint tenants, &c.

X. And be it enacted, That in any such action brought by some or one of several persons entitled as joint tenants, tenants in common or co-parceners, any joint tenant,

of the land

appearance
ence to part,
r the whole

o appearance
pointed, or if
nce be limited
n a judgment
shall recover
to which the
n the form in

se an appear-
l be at once
or trial shall
earance with
fence, if any,
ear for what
n the form of
Plea allowed,
as in other

pecial case in
same manner
be agreed to,
er as in other
t in the cases
e Writ of the
which of the
ial verdict as

upon a finding
e signed, and
possession and
the said judg-
present.

a a finding for
udgment may
ast the claim-

ny such action
ersons entitled
ers, any joint
tenant,

tenant, tenant in common or coparcener in possession may, at the time of appearance, or within four days after, give notice, in the same form as in the notice of a limited defence, that he defends as such, and admits the right of the claimant to an undivided share of the property, but denies any actual ouster of him from the property, and within the same file an Affidavit stating the same facts, and such notice shall be entered on the record in the same manner as the notice limiting the defence, and upon the trial, the additional question of whether an actual ouster has taken place shall be tried, as at present, in an action of Ejectment, and the effect of a judgment therein shall be the same as at present.

XI. And be it enacted, That the Judges of the Superior Courts of Common Law shall have power from time to time to make such alterations in the forms of Writs and proceedings, and also such rules as they may consider necessary to carry this Act into better effect.

Judges may alter forms, &c.

XII. And be it enacted, That in all cases where-in a Jury shall be empannelled to try any suit brought to recover possession of any property, the Jury shall also be sworn to assess any damages to which the Plaintiff or Plaintiffs may be entitled for the use, occupation or enjoyment of the premises in dispute by the party or parties defending the suit, and any damage, waste or spoil occasioned to such premises by such party or parties; and the Jury shall assess such damages as may appear just according to the evidence; Provided always nevertheless, that in all cases where substantial damages are demanded, the party or parties seeking to recover the same shall, with the original Summons, serve the Defendant or Defendants, and the person in occupation (if any) with a notice to the following effect, and that none but nominal damages shall be assessed unless such notice shall be given.

Jury may assess damages, &c.

Proviso.

"To A. B., the occupant of lot
"Concession of the Township of
"of : , in the
 , in the County

"You are hereby notified that the Plaintiff or Plaintiffs named
"in the Summons served herewith, will proceed against you, the
"said A. B., on the trial thereof, for the use, occupation, rents
"and profits of the premises for which this action is brought,
"during your possession and occupation of the said premises,
"and for all damages, waste and injury accruing to the said
"premises, or any part thereof, while in your possession and
"occupation.

"Dated at , this day of
325 XIII.

When no appearance, Plaintiff may suggest that he is entitled to damages, &c.

XIII. And be it enacted, That in all cases where no appearance is entered according to the provisions of this Act, and the Plaintiff has in consequence thereof signed judgment and entered up the same and sued out his Writ of Possession thereon, it shall and may be lawful for the said Plaintiff, after having given the notice in the twelfth clause of this Act mentioned, to suggest upon the Roll or Record of the judgment that he is entitled to damages for all or any of the causes set forth in the said twelfth clause of this Act mentioned, and thereupon, after giving the notice which the law now requires in all cases of assessment of damages of his intension to assess such damages, may be entitled at any Court of Assize and Nisi Prius thereafter, upon filing a certified copy of the said record and suggestion thereon in the said Court, to have a Jury empaneled to assess his said damages, and in case they find a verdict for the Plaintiff for any sum not less than Two Pounds, he shall upon filing the said record and verdict in the proper office, have the right to sue out a Writ of Execution, and to levy the same with the costs from the time of entering the said suggestion, including the entry thereof.

Defendant may offer to give up the premises, &c.

XIV. And be it enacted, That it shall and may be lawful for any person or persons who shall be served with a Summons in Ejectment and the notices required by this Act to be served therewith, within twelve days after the service of such Summons and Notice or Notices, to notify the Plaintiff or Plaintiffs that such person or persons disclaim any interest in the premises, and is or are willing to give up possession thereof; and if such person or persons shall, after such notice, give up possession and pay or tender to the Plaintiff or Plaintiffs a sufficient amount to cover all claims for the rents, issues, profits or occupation of the premises, and all reasonable costs incurred and damages occasioned to such premises while in the occupation of such person or persons, the proceedings in such suit may, on the application of such person or persons, be stayed by the Court in which the same shall be pending, or a Judge in Chambers;

Proviso.

Provided nevertheless, that if a sum insufficient shall be tendered, the Plaintiff or Plaintiffs shall be entitled to proceed for any larger amount to which he or they may consider himself or themselves entitled, but if on the trial a verdict shall be rendered against the Plaintiff or Plaintiffs, or a verdict shall be rendered in his or their favour for a sum not exceeding the amount tendered, the Plaintiff or Plaintiffs shall pay all costs subsequent to such tender, and shall only be entitled to levy the amount of the verdict, after deducting therefrom the Defendant's costs subsequent, together with costs to the time of such tender.

in all cases
according to the
has in con-
entered up-
on, it shall
g given the
to suggest
s entitled to
said twelfth
giving the
assessment of
y be entitled
pon filing a
ereon in the
id damages,
ny sum not
record and
t a Writ of
the time of
reof.

all and may
who shall be
ent and the
with, within
d Notice or
ch person or
d is or are
h person or
and pay or
unt to cover
ation of the
ges occasion-
h person or
plication of
a which the
Chambers;
insufficient
e entitled to
may consider
verdict shall
verdict shall
ceeding the
ay all costs
l to levy the
Defendant's
of such ten-

XV.

XV. And be it enacted, That in all cases when the party in possession or in the occupation of lands shall, after service of a Summon under this Act, abandon or give up possession of the premises mentioned in such Summons, and forthwith notify the Plaintiff or his Attorney thereof, and that the Plaintiff may enter thereon, the Plaintiff shall cause statement of the costs incurred to be rendered to such party, and on payment of such costs the suit shall be discontinued, unless the Plaintiff shall proceed in the same for the purpose of recovering damages for the rents, issues, profits or occupation of the premises, or for injury, waste or spoil done or committed thereon by such party or parties, or others under him or them during the possession of the premises by such party or parties; and if the Plaintiff or Plaintiffs shall proceed in such action, and a verdict shall be given for the Defendant, or shall not be given for the Plaintiff or Plaintiffs for a greater amount than Five Pounds, the Plaintiff or Plaintiffs shall pay all costs in the suit to the Defendant, who shall be at liberty to levy any amount of such costs exceeding the said sum for which such verdict shall be given.

If defendant gives
up the lands, and
pays costs, &c.

XVI. And be it enacted, That the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, and entitled, *An Act to alter and amend the practice and proceedings in actions of Ejectment in Upper Canada*, be, and the same is hereby repealed.

13 & 14 Vict., c.
57, repealed.

XVII. And be it enacted, That the provisions of this Act shall not in any wise affect any proceeding taken in any action of Ejectment before this Act becomes a Law; and that this Act shall come in force from and after the first day of January next, and not before, and shall not apply to any suit or action commenced before that day.

Pending cases
saved.

SCHEDULE A.

FORM OF JUDGMENT WHERE NO APPEARANCE TO WHOLE OF PROPERTY CLAIMED.

The _____ day of _____ (day when judgment entered)
(After setting forth the Writ, proceed) And the said A. B. did not appear as directed by the said Writ, but made default. Therefore, it is considered that the said C. D. do recover his possession of the said property in the said Writ mentioned. (And in cases where the appearance is only for part of the property, [except setting out the part for which no appearance has been entered]). And also the sum of £ _____ for his costs and charges expended about his suit, and a Writ to recover such possession and costs is granted accordingly.

SCHEDULE B.

FORM OF PLEA.

And the Defendant says that the Plaintiff is not entitled to the possession of the said property, for which the Defendant has appeared.

MARRIED WOMEN TO CONVEY REAL ESTATE, (C. W.)

CAP. VI.

AN ACT TO AMEND THE LAW ENABLING MARRIED WOMEN TO CONVEY THEIR REAL ESTATES WITHIN THIS PROVINCE.

[Assented to, 11th May, 1839.]

Preamble.

WHEREAS by an Act passed in the first year of the Reign of His late Majesty King William the Fourth, intituled, "*An Act to enable Married Women more conveniently to alien and convey their Real Estate, and to repeal an Act passed in the forty-third year of the Reign of King George the Third, and intituled, 'An Act to enable Married Women having Real Estate more conveniently to alienate and convey the same,'*" it is enacted, That it shall be lawful for any Married Women, above the age of twenty-one years, residing in this Province, and seized of Real Estate therein, to alien such estate by deed, jointly with her husband, executed in the presence of a Judge of the Court of King's Bench, in certain cases Judge of the Surrogate Court, or two Justices of the Peace, who shall, on the day of the execution of such deed, certify on the back of the same certain facts as set forth in the said Act:* And whereas in some cases such certificates may not have been signed on the day of the date of the deed to which they relate as required, and it is nevertheless expedient to render valid such deeds, and also to provide that in future such certificates shall state, that the deed was executed as required, on the day in which the certificate shall be signed; and also that the said certificate shall in all cases be *prima facie* evidence of the facts certified therein: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislature

* See 14 & 15 Vict., c. 115, Sec. 3, on page 332 in this work, with respect to whom a deed to be executed in the presence of.

intituled to the
endant has

REAL

TO CONVEY

ay, 1839.]

in the first
te Majesty
le Married
Real Estate,
y-third year
Third, and
ed Women
y to alienate
be lawful
-one years,
therein, to
uted in the
ertain cases
Peace, who
tify on the
Act.* And
have been
y relate as
valid such
ates shall
the day in
at the said
of the facts
een's Most
sent of the
Legislature
ect to whom a

2 Vict.

WOMEN TO CONVEY REAL ESTATE, (C. W.) Cap. 6, 1839.

Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America,' and to make further provision for the Government of the said Province," and by the authority of the same, That when any certificate upon the back of any deed, executed by any Married Woman pursuant to the said Act, shall have been heretofore given on any day subsequent to the execution of the said deed, such certificate shall be deemed and be taken to have been given on the day on which the said deed was executed; and such deed shall be as good and valid in law, as if such certificate had been in fact signed on the day of the execution of the deed to which it relates, as required by the said Act.

Certificate of alienation by a married woman valid, though not signed on the day the deed was executed.

II. And be it further enacted by the authority aforesaid, That the certificate to be endorsed upon any deed pursuant to the said Act, shall be to the following effect : Do hereby certify, that on this day of , at the within deed was duly executed in the presence of by , wife of , one of the grantors therein named; and that the said , at the said time and place, being examined by , apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever; and that such certificate shall be deemed and taken to be *prima facie* evidence of the facts contained therein, any thing in the said recited Act to the contrary thereof in any wise notwithstanding.

Form of Certificate.

Certificate *prima facie* evidence of facts contained.

III. And whereas it is expedient to provide greater facilities for barring dower; Be it therefore enacted by the authority aforesaid, That from and after the passing of this Act, whenever any Married Woman shall join with her husband in any deed or conveyance whatever (wherein a release of dower is contained,) it shall not be necessary to acknowledge the same before any Court, Judge or Justice of the Peace, but such execution shall be deemed a valid and effectual bar of dower, of and in the premises mentioned and described in such deed or conveyance, any law, usage or custom, to the contrary thereof in any wise notwithstanding.

Joining in conveyances, containing a release of dower, by a married woman, a sufficient bar of dower.

But acknowledgments in bar of dower rendered effective, although the wife not a party to the execution of the deed.

IV. And whereas it is necessary by Legislative provision, to legalize the bar of dower in certain deeds and conveyances, where the wife has not been a party to such deeds or conveyances, but has acknowledged the same before some competent authority: Be it therefore enacted by the authority aforesaid, That all acknowledgments which have been taken before any competent authority, shall be taken and deemed to be a valid and effectual bar of dower to all intents and purposes whatever, although the said wife shall not have joined in the execution of such deed or conveyance, or shall not have acknowledged the same on the day of the execution of such deed or conveyance.

MARRIED WOMEN'S REAL ESTATE ACT, (C. W.)

CAP. CXV.

AN ACT TO ENABLE MARRIED WOMEN RESIDENT IN FOREIGN COUNTRIES,
TO CONVEY REAL ESTATE OF WHICH THEY ARE SEIZED IN CANADA
WEST.

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS no provision has been made by Law to enable Married Women resident out of the Province of Canada, and who are residents of States or Countries not owing allegiance to the Crown of Great Britain, or who may be temporarily absent from the said Province of Canada, and for the time being residents of such States or Countries as aforesaid, to convey any real estate being within the said Province, and of which such Married Women may be seized, possessed or of otherwise entitled to: And whereas it often happens that such Married Women so resident as aforesaid, or absent from the said Province, are willing and desirous to convey and dispose of such their real estate and all their interest and estate therein to purchasers and others desirous of obtaining the title thereto, and it is right that such Married Women should be enabled to convey such their real estate without its being required that such Married Women or Husbands should come into this Province for the purpose of enabling them to make a valid conveyance of such their real estate, their estate and interest therein:

Legislative
in certain
has not
ances, but
competant
e authority
een taken
med to be
l purposes
ed in the
e acknow-
h deed or

ACT,

COUNTRIES,
IN CANADA

, 1851.]

a made by
n resident
of States
at Britain,
rovince of
s or Coun-
n the said
be seized,
often hap-
or absent
nvey and
and estate
g the title
ld be ena-
g required
e into this
valid con-
st therein:

Be

14 & 15 Vict. WOMEN'S REAL ESTATE ACT, (C. W.) Cap. 115, 1851.

Be it therefore enacted, &c. That from and after the passing of this Act, it shall and may be lawful for any Married Woman being above the age of twenty-one years, resident out of this Province, and being a resident of any State or Country not owing allegiance to the Crown of Great Britain, or being temporarily absent from this Province, and for the time being a resident of such State or Country as aforesaid, and being seized, possessed of or otherwise entitled to real estate within this Province, to alien and convey such real estate or any interest therein she may be entitled to by Deed, to be executed in such State or Country as aforesaid, by her penalty with her husband, to such use and uses as to her and her husband shall seem meet: Provided always nevertheless, that such Deed shall not be valid or have any effect, unless such Married Woman shall execute the same in the presence of the Governor or other Chief Executive Officer of such State or Country aforesaid, or in the presence of the British Consul resident in such State or Country, if there be a British Consul there resident, or in the presence of a Judge of a Court of Record of such State or Country, nor unless such Married Woman be examined by the said Governor, or other Chief Executive Officer, or such British Consul, or Judge of Court of Record, touching her consent to alien and depart with such real estate, and shall freely and voluntarily, and without coercion, give her consent, before such Governor, or other Chief Executive Officer, or such British Consul or Judge as aforesaid, to alien and depart with such estate: Provided always, that it shall not in any case be necessary for any such Governor, or other Chief Executive Officer, British Consul or Judge, to attest the execution of any such Deed as a subscribing Witness.

Married Women
resident in a for-
eign State may
convey estate in
C. W.

Proviso: Deed to
be executed be-
fore the Gover-
nor, British Con-
sul, &c.

Who shall ex-
amine her.

Proviso.

II. And be it enacted, That in case it shall appear to such Governor, or other Chief Executive Officer, British Consul or Judge, that such Married Woman doth freely and voluntarily consent to depart with, alien and convey her said real estate, or any interest she may be entitled to therein, without coercion on the part of her husband or any other person, it shall and may be lawful for such Governor, or other Chief Executive Officer, British Consul or Judge, to cause a Certificate thereof to be endorsed on the Deed so executed by her and her said husband as aforesaid, which Certificate shall state the day on which such examination is taken, and shall be signed by such Governor, or other Chief Executive Officer, and shall be also under the Seal of the State or Country of which such Governor or other Chief Executive Officer shall be the Governor or Chief Executive Officer as aforesaid

Such Governor,
Consul, &c., to
give a certificate.

Particulars to be
stated therein.

aforesaid, in cases where the said Certificate is made by such Governor or Chief Executive Officer, or signed by the said British Consul, or Judge of a Court of Record, and under the Seal of such Court, and which Certificate shall be in form or to the effect following, viz:

Form of certificate. "I, _____, do hereby certify, that on this _____ day of _____, at _____, the within Deed was duly executed in the presence of _____ by A. B., of _____ wife of _____, one of the grantors therein named; and that the said wife of the said _____, at the said time and place being examined by me, apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said Deed, freely and voluntarily, and without coercion or fear of coercion on the part of her husband, or of any other person or persons whatsoever."

Its effect. And such Certificate shall be deemed and taken to be *prima facie* evidence of the facts contained therein.

Part of sec. 1, of Act of C. W., 1. Will. 4, c. 2. repealed.

III. And be it enacted, That the first section of an Act of the Parliament of the Province of Upper Canada, passed in the first year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to enable Married Women more conveniently to alien and convey their Real Estate, and to repeal an Act passed in the forty-third year of the Reign of King George the Third, intituled, 'An Act to enable Married Women, having Real Estate, more conveniently to alienate and convey the same,'* be, and the same is hereby amended, by expunging from the proviso of the said section the following paragraph, viz: "Or in the presence of a Judge in the District Court, or of a Judge of the Surrogate Court of the District in which such Married Women shall reside, or of two

Other provisions substituted.

"Justices of the Peace for such District," and inserting in the place thereof and substituting therefor the following paragraph, viz: "Or in the presence of the Judge of the County Court, or Judge of the Surrogate Court, or two Justices of the Peace of the County where such Married Women shall reside, or happen to be when the said Deed is executed by such Married Women."

Extent of Act.

IV. And be it enacted, That this Act shall apply to Real Estate in Upper Canada only.

HEIR

by such
and British
the Seal of
the effect

at on this

, one of
f the said
examined
consent to
aid Deed,
coercion
persons

and taken
acts con-

ection of
vince of
the Reign
tuled, An
and con-
erty-third
'An Act
veniently
s hereby
ction the
ge in the
the Dis-
r of two
' and in-
ng there-
the pre-
e Surro-
y where
hen the

all apply

HEIR

HEIR AND DEVISEE ACT, (C. W.)

CAP. VIII.

AN ACT TO REPEAL CERTAIN ACTS THEREIN MENTIONED, AND TO MAKE BETTER PROVISION FOR THE RELIEF OF PARTIES CLAIMING LANDS IN CANADA WEST, FOR WHICH NO PATENT HATH ISSUED, AS REPRESENTING THE ORIGINAL NOMINEES OF THE CROWN.

[Assented to, 10th February, 1845.]

WHEREAS it hath become necessary to make better and more effective provision than is made by the laws now in force, for determining claims to Lands in Upper Canada, for which no Patent hath issued, and for ascertaining the parties in whose favour the Patents for such lands ought respectively to issue, and for this purpose it is expedient to repeal the Acts of the Legislature of Upper Canada hereinafter mentioned, and to re-enact and consolidate such of the provisions thereof as are found effective, with such amendments and additions as experience hath shewn to be requisite: Be it therefore enacted, &c., That the Act of the Legislature of Upper Canada, passed in the forty-fifth year of the Reign of His Majesty, King George the Third, and intituled, *An Act to afford relief to those persons who may be entitled to claim Lands in this Province, as Heirs or Devises of the Nominees of the Crown, in cases where no Patent hath issued for such Lands*; and the Act of the said Legislature passed in the forty-eighth year of the same Reign, and intituled, *An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, "An Act to afford relief to those persons who may be entitled to claim Lands in this Province, as Heirs or Devises of the Nominees of the Crown, in cases where no Patent hath issued for such Lands," and further to extend the benefits of the said Act*; and the Act of the said Legislature passed in the fifty-second year of the same Reign, and intituled, *An Act to amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled, "An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, An Act to afford relief to those persons who may be entitled to claim Lands in this Province, as Heirs or Devises of the Nominees of the Crown, in cases where no Patent hath issued for such Lands, and further to extend the benefits of the said Act," and to continue part of the same*; and the Act of the said Legislature passed in the fifty-sixth year of the

Preamble.

C. W. 45 Geo. 3.
cap. 2.

C. W. 48 Geo. 3.
cap. 10.

C. W. 52 Geo. 3.
cap. 9.

C. W. 50 Geo. 3,
cap. 21.

the same Reign, and intituled, *An Act to revive and continue an Act passed in the fifty-second year of His Majesty's Reign, intituled, "An Act to continue and amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled, An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, An Act to afford relief to those persons who may be entitled to claim Lands in this Province, as*

* Sic.

Heirs and Devisees of the Crown, in cases where no Patent hath issued for such Lands, and further to extend the benefit of the said Act," and to continue part of the same ; and the Act of the said Legislature passed in the fifty-ninth year of the*

C. W. 50 Geo. 3,
cap. 18.

same Reign, and intituled, An Act to continue and amend an Act passed in the fifty-sixth year of His Majesty's Reign, intituled "An Act to revive and continue an Act passed in the fifty-second year of His Majesty's Reign, intituled, An Act to continue and amend an Act passed in the forty-eighth year of His Majesty's Reign, intituled, An Act to continue an Act passed in the forty-fifth year of His Majesty's Reign, intituled, An Act to afford relief to those persons who may be entitled to claim lands in this Province, as Heirs and Devisees of the Nominees of the Crown, in cases where no Patent hath issued for such Lands, and further to extend the benefit of the said Act," and to continue part of the same ; and the Act of the said Legislature, passed in the fourth year of the Reign of His Majesty King George the Fourth,

C. W. 4 Geo. 4,
cap. 7.

and intituled, An Act to afford relief to persons claiming Lands in this Province, under assignments from Heirs, Devisees, or Assignees of the original Nominees of the Crown, in cases where no Patents had issued, and for other purposes therein mentioned ; and the Act of the said Legislature passed in the tenth year of the same Reign, and intituled, An Act to afford greater facility in procuring testimony upon claims to Lands in this Province, by the Heirs or Devisees of the original Nominees of the Crown, or their Assignees, shall be, and the said Acts are and each of them is hereby repealed.

Commissioners
to be appointed
for the purposes
of this Act.

II. And be it enacted, That it shall be lawful for the Governor of this Province, from time to time, to issue such and so many Commissions under the Great Seal of this Province, to the Chief Justice of Her Majesty's Court of Queen's Bench for Upper Canada, the Vice-Chancellor of Upper Canada, and the Puisné Justices of the said Court of Queen's Bench, and to such and so many other persons as he shall think fit ; and such Commissioners or any three of them of whom the said Chief Justice, the said Vice-Chancellor, or one of the said Puisné Justices, shall be one (and such three Commissioners shall be a *Quorum* for all the purposes of this Act), shall have full power and authority in manner hereinafter mentioned, to

Quorum fixed.

Power of Commis-
sioners.

to revive
cond year
nd amend
's Reign,
fifth year
f to those
ovince, as
uses where
xtend the
; and the
ar f the
tinue and
r of His
e an Act
intituled,
ty-eighth
ue an Act
ituled, An
l to claim
nees of the
ands, and
inue part
sed in the
e Fourth,
o persons
signments
minees of
for other
egislature
d, An Act
claims to
e original
, shall be,
is hereby

shall be
nce, from
Commis-
of Justice
Canada,
é Justices
so many
ioners or
aid Vice-
one (and
orum for
ull power
tioned, to
ascertain,

ascertain, determine and declare, in all cases to be brought before them under the provisions of this Act, who is the party to whom the Patent ought to issue for the Lands to which the claims shall respectively relate : and the sittings of the said Commissioners shall be holden at the city of Toronto, on the first Monday in January and the first Monday in July, in each year, and on the thirteen days next ensuing the said days, respectively. Sundays and Holidays excepted : Provided always, that when the said Commissioners shall have good reason to believe that there will not be sufficient business to require their daily attendance throughout the term appointed for their sittings, as aforesaid, they may adjourn for any time within such term that may be consistent with the despatch of such business as may be brought before them ; and the said Commissioners shall have power to appoint some fit person to be their clerk : Provided always, that any act herein authorized or directed to be performed by one Commissioner may be so performed either in or out of the period appointed for their sittings.

Sittings when and where to be holden.

Proviso, adjournment in case of want of business.

Clerk to be appointed.

Proviso as to acts to be done by any one Commissioner.

See 14 & 15 Vict., chapter 12, respecting this section on page 343.

III. And be it enacted, That it shall and may be lawful for each and every party claiming any Lands within Upper Canada for which no Patent hath issued, as being the Heir, Devisee or Assignee, of the original Nominee of the Crown, or as having derived a title or claim to such Lands from or through any such Heir, Devisee or Assignee, to bring his claim before the said Commissioners at their sittings, either personally or by his agent or attorney, and to produce before the said Commissioners all such documents, proofs and evidence as he may have to adduce in support of such claim ; and such evidence may be given *viva voce* before the said Commissioners, at their sittings, or by written depositions sworn before any one of the said Commissioners, or by any person specially appointed to receive the same by the said Commissioners, or before the Judge of any Circuit Court, or any Clerk of the Peace, of any Commissioner for receiving affidavits, to be used in the Court of Queen's Bench in Upper Canada, each of whom is hereby authorized to receive such depositions and to administer the necessary oaths ; and all certificates of the Surveyor General or of the Clerk of the Executive Council, or copies certified by them respectively of documents in their custody, shall also be received in evidence before the said Commissioners.

What claims may be brought before the Commissioners.

And what evidence.

said Commis-

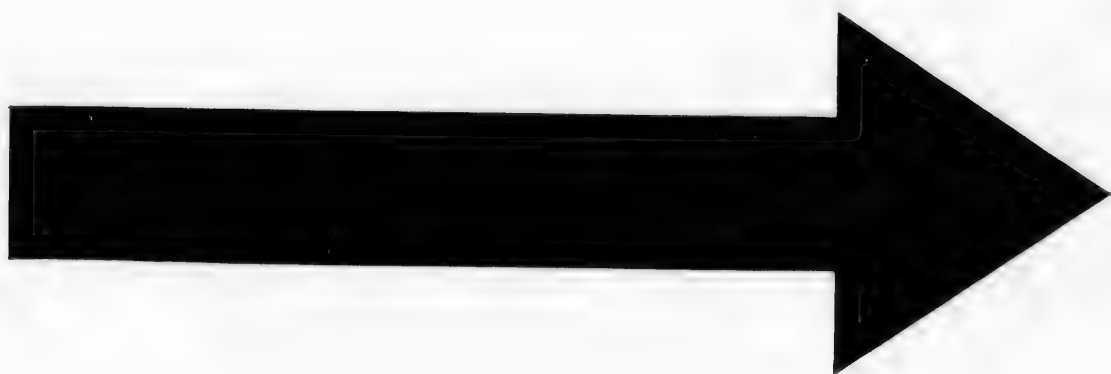
Documents which may be received in evidence

Certified copies of certain documents.

Power to command the attendance of

Cases

IV. And be it enacted, That the said Commissioners shall have full power and authority in all



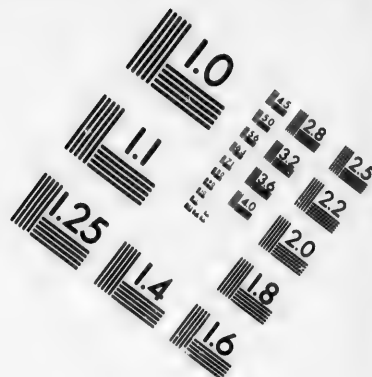
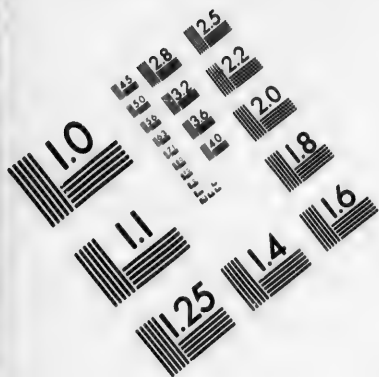
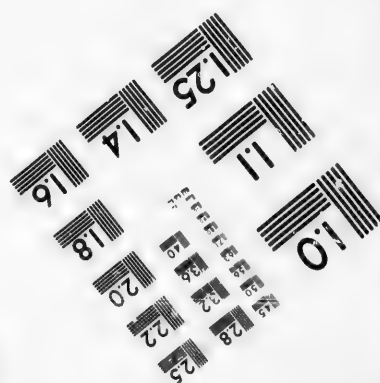
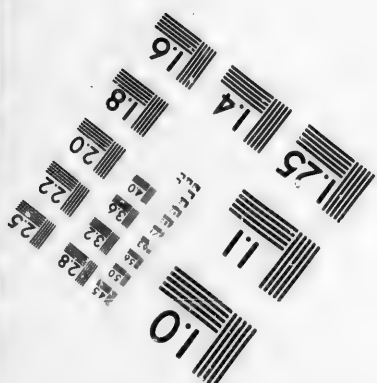
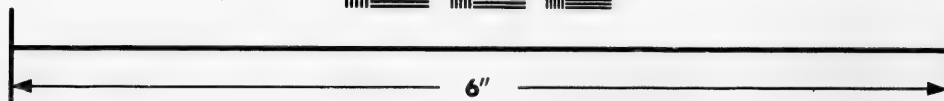
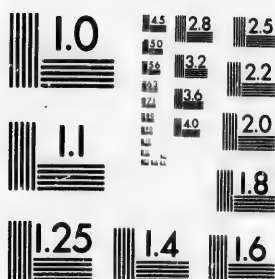


IMAGE EVALUATION TEST TARGET (MT-3)



Photographic
Sciences
Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

14
15
16
17
18
19
20
21
22
23
24
25

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

witnesses,—
parties, &c. for
examination.

Mode of exami-
nation, pro-
duction of docu-
ments, &c.

Commissions may
be issued to
examine witness-
es not in Canada
West.

Penalty on any
party or witness
neglecting to
appear or to
answer, &c.

Interrogatories
not answered by
a party to be
taken *pro*
confessis.

Affidavit to be
made by any
claimant before
his claim shall be
received.

cases where they shall deem it requisite for the purposes of Justice, to summon before them, by summons under the hand of any one of them, either the claimant or any party interested in the case, or any other person whom they shall deem it expedient to examine as a witness in the case, or whom they may have reason to believe to be in possession of any document by the production of which the ends of Justice may be better attained; and to require such claimant or party, or such witness to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross-interrogatories in writing, or to produce such books, papers or documents in his possession, as to the said Commissioners shall appear requisite; or the said Commissioners may cause such interrogatories or cross-interrogatories as they shall deem requisite to be served upon and answered by any such claimant, party or witness, or any witness whose deposition shall be produced in evidence before them, and may cause Commissions to be issued for the examination of any witness not resident in Upper Canada, and for requiring such witness to produce such books, papers or other documents as he may have in his possession, and may at their discretion delay the proceedings in the case until such evidence and answers as they shall have thought proper to require and order, shall have been adduced and given; and if any claimant, party or person duly summoned to give evidence, or to produce any book; paper or document, or to answer any interrogatories or cross-interrogatories before the said Commissioners, or before any person commissioned by them to receive the same within this Province, shall wilfully neglect to appear at the time and place appointed in the summons, or appearing, shall refuse to answer any lawful question, or to produce any document in his possession, he shall thereby forfeit the sum of twenty-five pounds (to be recovered as hereinafter mentioned) to the party at whose instance he shall have been so summoned or required to answer or to produce such document; and if the claimant or any party interested in the case shall make default to answer any interrogatory or cross-interrogatory which he shall have been duly required to answer, the same shall be taken *pro confessis*, as if his answer had been such as would be most adverse to his own claim or interest.

V. And be it enacted, That no claim shall be received or proceeded upon by the said Commissioners, until the party by whom, or on whose behalf the same shall be made (or if such party consist

consist of more than one person, then until some one of such persons) shall have made and produced before the said Commissioners, an Affidavit in writing signed by him, that such claim is just and well founded to the best of his knowledge and belief, and that he is not aware of any adverse claim, or if he be aware of any adverse claim, that he has caused notice in writing of his claim and of his intention to bring the same before the said Commissioners at the time when it shall be actually so brought, (a copy of which notice shall be annexed to the affidavit) to be served on the party having or being supposed to have such adverse claim at least one month before the date of such affidavit.

VI. And be it enacted, That the said Commissioners shall not proceed upon any such claim as aforesaid, unless a notice specifying such claim and the name or names of the party claiming, together with the number of the lot of which the lands claimed consist or of which they form part, and of the concession and the name of the Township in which the same shall lie, shall have been put up in some conspicuous place in the office of the Clerk of the Peace of the District in which such lands are situate, during at least thirty days before such claim shall come to be heard before the said Commissioners, nor unless a certificate to that effect from such Clerk of the Peace shall be produced to the said Commissioners; and it shall be the duty of the Clerk of the Peace of each District in Upper Canada, once in every three months, to make a list of the claims so put up in his Office, specifying therein the particulars of such claims in the manner in which they are hereinbefore required to be specified in the notice so put up, and to affix such list in some conspicuous part of the Court house, or place in which the Courts of General Quarter Sessions are held for the District, and to cause the said List to be publicly read and proclaimed in open Court at each such Session, by the Crier of the Court, and immediately after the delivery of the charge to the Grand Jury; and for each such certificate as aforesaid, it shall be lawful for the Clerk of the Peace to demand and receive the sum of two shillings and six pence, and no more.

Certain public notice to be given before a claim is made and received.

Duty of the Clerk of the Peace with regard to such notices.

Fee to him.

VII. And be it enacted, That it shall be lawful for the said Commissioners to defer, delay, or adjourn the proceedings on any claim brought before them, and to give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they shall deem expedient for the attainment of the ends of justice.

Delay may be granted by the Commissioners.

Commissioners to decide on the claim and report to the Governor in Council.

to legal forms or to the strict letter of the law or legal rules of evidence, and may report their decision to the Governor in Council; and such report shall be final and conclusive (except in the case hereinafter mentioned,) and it shall be lawful for the Governor in Council to direct that Her Majesty's Letters Patent under the Great Seal of the Province do issue, for granting the lands in question to the party who shall have been determined by the decision of the Commissioners to be entitled to the same, as representing the original Nominee of the Crown: Provided always, that such Letters Patent shall have such and none other effect or operation with regard to any charge, incumbrance, lien, matter or thing, upon or affecting the lands so granted, as Letters Patent issuing for the same in favor of the original Nominee of the Crown would have had, save only as establishing the claim of the party in whose favor they shall be granted to the lands to which they relate, as the Heir, Devisee or Assignee of, or as otherwise representing the original Nominee: And provided also, that neither the decision of the Commissioners on any claim, nor the issuing of the Letters Patent on such decision, shall extend to or in any way affect any claim of the same party, or of any other party, to any lands other than those to which such decision shall expressly relate, and which shall be mentioned and described in the report and Letters Patent, but such claim to other lands shall continue and remain as if such decision and report had not been made.

Patent to issue on such report.

Provido, as to the effect of the Patent with regard to charges or incumbrances on the lands.

Report and Patent not to affect any claim to any Lands but those mentioned therein.

Patent not to issue for one month after the report is received.

Patent may be staid, if the report have been obtained by surprise, &c.

VIII. And be it enacted, That after the said Commissioners shall have fully examined any such claim as aforesaid, they may either reject or allow the same as in their judgment the justice and equity of the case may require without regard to the strict letter of the law or legal rules of evidence, and may report their decision to the Governor in Council; and such report shall be final and conclusive (except in the case hereinafter mentioned,) and it shall be lawful for the Governor in Council to direct that Her Majesty's Letters Patent under the Great Seal of the Province do issue, for granting the lands in question to the party who shall have been determined by the decision of the Commissioners to be entitled to the same, as representing the original Nominee of the Crown: Provided always, that such Letters Patent shall have such and none other effect or operation with regard to any charge, incumbrance, lien, matter or thing, upon or affecting the lands so granted, as Letters Patent issuing for the same in favor of the original Nominee of the Crown would have had, save only as establishing the claim of the party in whose favor they shall be granted to the lands to which they relate, as the Heir, Devisee or Assignee of, or as otherwise representing the original Nominee: And provided also, that neither the decision of the Commissioners on any claim, nor the issuing of the Letters Patent on such decision, shall extend to or in any way affect any claim of the same party, or of any other party, to any lands other than those to which such decision shall expressly relate, and which shall be mentioned and described in the report and Letters Patent, but such claim to other lands shall continue and remain as if such decision and report had not been made.

IX. And be it enacted, That no Letters Patent shall issue on any decision and report of the said Commissioners until after the expiration of one Calendar month, from the time such report shall have been transmitted and marked as received by the Clerk of the Executive Council: and if, before the expiration of such Calendar month, any *Quorum* of the said Commissioners shall, from any representation made to them, find reason to believe that such decision and report were obtained by surprise or erroneously made in any respect, and that justice requires that the issuing of the Letters Patent be staid, then such *Quorum* of the said Commissioners may, although it be not then the regular period of their sitting, report accordingly to the Governor in Council, and the issuing of the Letters Patent shall be thereupon staid, until the Commissioners

er the said
mined any
er reject or
the justice
hout regard
gal rules of
Governor in
al and con-
mended,)
direct that
of the Pro-
e party who
mmissioners
uch Nominee
uch Letters
er effect or
cumbance,
g the lands
or the same
d have had,
whose favor
late, as the
essenting the
that neither
any claim,
on such de-
y affect any
er party, to
on shall ex-
described in
other lands
port had not

tters Patent
of the said
tion of one
been trans-
e Executive
on of such
said Com-
mission made to
decision and
made in any
the Letters
mmissioners
their sitting,
ssuing of the
mmissioners
shall

shall again report upon the case, and the said Commissioners may then rehear the case, or let in any new claim and receive or insist upon any new evidence as to them shall appear expedient to enable them to do justice in the case, and may thereafter decide and report thereon as if no prior decision and report had been made, and with like effect: Provided always, that the said Commissioners, if under the circumstances of the case, it shall appear to them fair and right so to do, may allow to the party in whose favor the first decision and report shall have been made, such costs against the party at whose instance the case shall have been taken into consideration as they shall deem just and reasonable, or may in case of fraud or wilful wrong in the conduct of such party award costs in like manner against him to the party in whose favor the subsequent decision and report shall have been made.

Commissioners
may rehear the
case, &c.

Proviso: the costs
occasioned by
such rehearing to
be in the discre-
tion of the Com-
missioners.

X. And be it enacted, That when any lands described as granted in any Schedule furnished by the Surveyor General to the Treasurer of any District in Upper Canada, under the provisions of any law concerning the collection of local taxes or assessments in that part of this Province, but for which no Letters Patent shall have issued, shall have been sold by the Sheriff for arrears of such local taxes or assessments, and the period allowed by law for the redemption of such lands shall have expired, it shall be lawful for the purchaser, or for the Heir, Devisee or Assignee of the purchaser to claim the same before the Commissioners aforesaid, and such purchaser shall thereupon for all the purposes of this Act be considered as an Assignee of the original Nominee of the Crown, and his claim shall be acted on and dealt with accordingly.

Purchasers of un-
patented lands
sold for taxes,
may file their
claims for a Pa-
tent before the
Commissioners.

XI. And be it enacted, That wherever the original Nominee of the Crown, or any party through whom the party obtaining Letters Patent for any Lands under this Act shall be declared by the Commissioners to have derived his claim thereto, shall before the issuing of such Letters Patent have granted any mortgage, incumbrance or Lien on such Lands, by any instrument by which the same would have been validly granted, if the Letters Patent had issued in favor of the Grantor before the date of such instrument, the same may be registered in the Office of the Register for the County in which such lands shall lie subject to the same conditions, and with the same effect and no other, and shall in Law and equity have the same force and effect and no other, as if Letters Patent for the said Lands, had, before the execution of such instrument, issued in favor of such Grantor.

Effect of mor-
gages, &c., granted
before the issue
of the Letters
Patent.

Unfinished proceedings before the former Commissioners, may be continued before those appointed under this Act, and the documents, &c., shall be transferred into the hands of their Clerk,

XII. And be it enacted, That all papers, documents, matters and things, which at the time this Act shall come in force, shall be in the custody of the Commissioners appointed under any of the Acts hereby repealed, or of their clerk, as such, shall be transferred and delivered over to the Commissioners to be appointed under this Act or their clerk; and all proceedings commenced or pending in any case before the first mentioned Commissioners under any of the Acts hereby repealed, may be continued and completed by and before the Commissioners to be appointed under this Act, as if commenced before them, and with like effect, or such proceedings may be discontinued in any case and the parties may be required to proceed *de novo*, either with regard to the whole case or to any particular matter or proceeding therein, as to the said last mentioned Commissioners shall in their discretion seem meet; and any decision and report of the first named Commissioners given and made before this Act shall come into force, shall remain good and valid, and may be acted upon as to the issuing of Letters Patent, as if it had been given and made under the authority of this Act, and in like manner shall be subject to the provisions thereof in case it shall appear to any *Quorum* of the Commissioners under this Act, that it was erroneous or was obtained by surprise, and they shall so report before the expiration of ninety days from the time the report of the Commissioners under such former Acts was made.

Affirmation may be made instead of an oath in certain cases.

XIII. And be it enacted, That in every case where an oath may be required under this Act, it shall be lawful for the party of whom the same may be so required to make a solemn affirmation in lieu thereof and with like effect, if such party be one of the persons who, by the laws then in force in Upper Canada, shall be allowed to make such solemn affirmation in lieu of an oath, in civil cases; and if any person shall in any such oath or affirmation wilfully swear or affirm falsely, he shall be deemed guilty of wilful and corrupt perjury, and being thereof convicted, shall be liable to the pains and penalties imposed by law for that offence.

Willful false statement to be perjury.

Rules and forms of proceedings to be established by the Commissioners.

XIV. And be it enacted, That it shall be lawful for the said Commissioners from time to time to make and establish such rules and forms, with regard to any proceedings to be had before them, and to such notices, papers and other documents as shall be required in the conduct of such proceedings, as to them shall appear expedient for the better attainment of the purposes of justice.

papers, docu-
the time this
e custody of
y of the Acts
uch, shall be
e Commiss-
Act or their
d or pending
ed Commis-
be continued
be appointed
h like effect,
ase and the
th regard to
ding therein,
their discre-
nd report of
n and made
shall remain
uing of Let-
the authority
ne provisions
the Commis-
obtained by
on of ninety
under such

every case
this Act, it
n the same
lieu thereof
ons who, by
wed to make
ases; and if
r affirmation
ll be deemed
r, and being
enalties im-

all be lawful
e to time to
forms, with
before them,
as shall be
them shall
purposes of

XV.

XV. And be it enacted, That in all cases in which any witness shall have duly appeared to give evidence before the said Commissioners, or before any person appointed by them to examine or to receive the testimony or deposition of such witness, it shall be lawful for the said Commissioners to order and direct the party at whose instance such witness shall have been summoned, or his testimony or depositions taken, to allow to such witness for his loss of time and expenses, such sum as the said Commissioners shall deem equitable, which order such party shall obey, or in default, such sum shall be recoverable from such party by action in any Court in this Province, having jurisdiction in civil cases to a like amount, due regard being had to the limits of the local jurisdiction of such Court.

Costs may be allowed to witnesses.

Recovery of such costs.

XVI. And be it enacted, That the clerk of the said Commissioners shall be entitled to demand and recover for the following services respectively, the fees hereinafter mentioned, from the persons requiring such services, that is to say: for fying each petition, one shilling, currency; for setting down for hearing any claim, two shillings and six pence, currency; on the hearing of any claim, five shilling currency; for making up a report on the same, ten shillings, currency; for each certificate of the allowance of any claim, one shilling and three pence, currency; for a copy of the order respecting any claim, one shilling and three pence, currency; for each summons for the attendance of any witness or witnesses, two shillings, currency; for each commission for the examination of witnesses, ten shillings, currency; for any certified copy of any paper or document in his custody, one shilling and three pence, currency for the certificate, and at the rate of six pence, currency for each one hundred words in such copy; and such reasonable fees for any service not herein specially mentioned or included in those so mentioned, as the said Commissioners shall from time to time allow him, as a fair and just compensation for the labour by him performed, and no more; and for receiving any affidavit or deposition under the authority of this Act, the person authorized to receive and receiving the same, not being one of the Commissioners to be appointed for carrying this Act into effect, shall be entitled to demand and recover from the party requiring him to receive the same, the sum of one shilling and three pence, and no more; and all such fees as aforesaid may be required to be paid before the service for which they are granted shall be performed, or if not so required, may be recovered in the manner hereinbefore appointed with regard to the sum allowed to a witness.

Fees on proceedings under this Act, to the Clerk of the Commissioners.

Unenumerated service.

Fees to persons appointed to receive affidavits.

Recovery of such fees.

Certified copies of proceedings and orders of the Commissioners to be received in evidence.

In what cases only it shall be necessary to prove the certificate.

Costs.

Interpretation clause.
Governor.

ant-Governor,

Canada West.

Heir, Devisee, Assignee.

Lands.

Singular number or masculine gender.

XVII. And be it enacted, That a copy of any order, report or decision, to be made by the said Commissioners under the authority of this Act, certified by their Clerk and countersigned by one of the said Commissioners, shall be received in any civil suit or action in any Court in this Province, as evidence of the making of such order, report or decision, in the manner and form and according to the tenor thereof as set forth in such copy; nor shall it be necessary in such suit or action to prove the signatures of such Clerk or Commissioner, unless, after the party intending to produce the same, shall have given due notice of such intention to any adverse party, according to the course and practice of the Court, such adverse party shall in like manner have signified his intention to dispute such signatures, or either of them, in which case it shall be requisite to prove the same, and the costs attending such proof may, in the discretion of the Court, be allowed to the party making such proof, whatever be the result of the suit or action.

XVIII. And be it enacted, That the words "Governor of this Province," wherever they occur in this Act shall be understood to include the Lieutenant-Governor, or other person administering the Government of this Province; the words "Upper Canada," shall be understood to mean all that part of this Province which formerly constituted the Province of Upper Canada; the words "Heir, Devisee, or Assignee," shall be understood to include the Heirs, Devisees, or Assignees of any Heir, Devisee, or Assignee, to any Degree; the word "Lands," shall be understood to mean any lot or lots, piece or parcel of Lands, of what extent soever they may be, to which any claim shall be made under this Act; and Quorum. wherever the Commissioners under this Act are empowered or directed to do or perform any Act, it shall be understood that such Act may be done or performed by any Quorum of such Commissioners; and words importing the singular number or the masculine gender only shall be understood to include several persons, matters and things, as well as one person, matter or thing, and females as well as males, unless it be otherwise specially provided, or there be something in the subject or context repugnant to or inconsistent with such construction.

copy of any
by the said
his Act, cer-
d by one of
civil suit or
the making
nd form and
h copy; nor
ion to prove
ommissioner,
produce the
n to any ad-
f the Court,
ed his inten-
which case
me, and the
ne discretion
proof, what-

words "Go-
ney occur in
the Lieuten-
vernment of
da," shall be
ais Province
Canada; the
shall be un-
es, or Assig-
egree; the
o mean any
soever they
is Act; and
his Act are
shall be un-
any *Quorum*
nporting the
gender only
ral persons,
r thing, and
pecially pro-
t repugnant

HEIR AND DEVISEE ACT AMENDMENT.

CAP. XII.

AN ACT TO AMEND THE HEIR AND DEVISEE ACT, CANADA WEST.

[Assented to 2nd August, 1851.]

WHEREAS by the second section of the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign, chaptered eight, and intituled, *An Act to repeal certain Acts therein mentioned, and to make better provision for the relief of parties claiming lands in Upper Canada for which no patent hath issued, as representing the original Nominees of the Crown*, it is enacted, that it shall be lawful for the Governor of this Province, from time to time, to issue such and so many Commissions, under the Great Seal of this Province, to the Chief Justice of Her Majesty's Court of Queen's Bench for Upper Canada, the Vice-Chancellor of Upper Canada, and the Puisné Justices of the said Court of Queen's Bench, and to such and so many other persons as he shall see fit; and such Commissioners, or any three of them, of whom the said Chief Justice, the said Vice-Chancellor, or one of the said Puisné Justices shall be one, shall form a quorum, and have full power and authority for all the purposes of the said Act: And whereas, by a certain Act passed in the twelfth year of Her Majesty's Reign, chaptered sixty-three, and intituled, *An Act to make further provision for the Administration of Justice by the establishment of an additional Superior Court of Common Law, and also a Court of Error and Appeal in Upper Canada, and for other purposes*, an additional Court of Common Law, called the Court of Common Pleas, consisting of a Chief Justice and two Puisné Judges, has been constituted and established; and by a certain other Act, passed in the said twelfth year of Her Majesty's Reign, chaptered, sixty-four, and intituled, *An Act for the more effectual Administration of Justice in the Court of Chancery of the late Province of Upper Canada*, it is enacted, that the said Court of Chancery shall be presided over by a Chief Judge, to be called the Chancellor of Upper Canada, and two additional Judges, to be called Vice-Chancellors; and whereas it is expedient that the said second section of the first herein recited Act should be repealed, and power given to the Governor or person administering the Government to issue Commissions under the said first recited Act, as well to the said Chief Justice and Puisné Justices of the Court of Common Pleas, and the said Chancellor

Preamble.

8 Vict. c. 8.

12 Vict. c. 63.

12 Vict. c. 64.

and Vice-Chancellors, as to the said Chief Justice and Puisné

Part of Sect. 2, of
8, Vict. 8. Repealed
and other provisions substituted.

Justices of the said Court of Queen's Bench: Be it therefore enacted, &c., That that part of the second section of the Act herein first above recited, which designates the persons to whom Commissions may be issued for all the purposes of that Act, be and the same is hereby repealed; and from and after the passing of this Act, it shall be lawful for the Governor, or person administering the Government of this Province, from time to time, to issue such and so many Commissions, under the Great Seal of this Province, to the Chief Justice of Her Majesty's Court of Queen's Bench for Upper Canada, the Chancellor of Upper Canada, the Chief Justice of the said Court of Common Pleas, the Puisné Justices of the said Court of Queen's Bench and Common Pleas, and the Vice-Chancellors, and to such and so many other persons as he shall think fit; and such Commissioners, or any three of them, of whom the said Chief Justice of the Court of Queen's Bench, the Chancellor of Upper Canada, the Chief Justice of the said Court of Common Pleas, or one of the said Puisné Justices of the said Court of Queen's Bench or Common Pleas, or one of the said Vice-Chancellors shall be one, (such three Commissioners to be a quorum for all the purposes of that Act,) shall have full power and authority in the manner and for all the purposes mentioned in the said Act.

LAW IN ACTIONS OF DOWER, (C. W.)

CAP. LVIII.

AN ACT TO ALTER THE PRACTICE OF THE LAW IN ACTIONS OF DOWER, IN CANADA WEST.

[Assented to, 10th August, 1850.]

Preamble.

WHEREAS it is expedient and necessary to alter the Practice of the Law for the recovery of Dower, and to give a more easy and less expensive remedy for the recovery thereof, than now exists in Upper Canada: Be it therefore enacted, &c., That from and after the passing of this Act, the action of Dower at Law shall be commenced by filing a declaration or plaint (in the form heretofore used) in the Office of the Clerks of the Crown, or Common Pleas, or of any Deputy Clerk of the Crown, or Common Pleas, in any County where the action is brought: Provided always, that any action of Dower shall be brought in the County or United Counties wherein the lands or tenements of which Dower is sought to be recovered in such action are situate, and that the declaration may be served on the tenant of the

How actions of
Dower shall be
commenced.

Proviso: where
the action shall
be brought, &c.

and Puisné
Bench: Be
part of the
ove recited,
m Commis-
et, be and
e passing of
ministering
ue such and
Province, to
Bench for
Chief Jus-
Justices of
as, and the
ersons as he
of them, of
Bench, the
aid Court of
of the said
of the said
ers to be a
full power
s mentioned

C. W.)

F DOWER, IN

st, 1850.]

ecessary to
aw for the
expensive
in Upper
That from
action of
by filing a
the Office
any Deputy
where the
that any
County or
tenements
action are
e tenant of
the

the freehold in any part of Upper Canada, either within or without the limits of the County or United Counties in which the action is brought.

II. And be it enacted, That a copy of such declaration and of the notice to this Act annexed (marked Schedule A) may be served by any literate person personally, within one year from the filing thereof, on the tenant of the freehold, if within the jurisdiction of the Court, and if not, then upon the tenant of the land of which Dower is demanded, and if such tenant do not plead agreeably to the notice, the demandant therein, upon affidavit of the due service of such declaration, and notice being made and filed, shall be entitled to proceed thereon as in personal actions.

Copy of Declaration, &c. to be served on tenant, and how.

III. And be it enacted, That if the land of which Dower is demanded is vacant, and the tenant of the freehold cannot be personally served with declaration as hereinbefore provided, then and in such case, service may be made as in actions of ejectment: Provided always, that such service when not personal upon the tenant, shall be allowed by the Court or a Judge thereof, and after filing such declaration and affidavit of service, and the order or rule of allowance thereof, the demandant may after the time for pleading has expired proceed thereon, as if personal service had been effected.

If the land be vacant, and tenant cannot be personally served.

IV. And be it enacted, That whenever the tenant of the land shall not be personally served with declaration and the demandant shall proceed to the trial of the right of Dower in the land, the said demandant before the entry of any verdict in favor of such right shall prove the marriage *seisin* and death of the husband in the same manner as if the tenant had pleaded, traversing such marriage *seisin* and death of the husband.

What must be proved if tenant be not personally served.

V. And be it enacted, That costs shall be allowed to the demandant in all cases, whether damages be recoverable or not, in the same manner as costs are now allowed to a plaintiff or defendant in personal actions; provided it shall be made to appear on the trial that a demand in writing had been made of the Dower claimed from the tenant one month before action brought, the action to be brought within a year from demand as aforesaid; provided also, that the tenant shall not make it appear on the trial, that he or she offered to assign the Dower demanded before action brought.

Costs allowed to demandant.

Proviso.

VI. And be it enacted, That every tenant to whom any declaration or plaint in Dower shall be delivered, shall forthwith give notice thereof to his

Tenant served to give notice to his landlord.

Landlord,

Landlord, or to the Servant, Attorney, Agent, Bailiff or Receiver of his Landlord, under the penalty of forfeiting three years improved or rack rent of the premises so demised, holden, or in the possession of such tenant to the person of whom he holds, to be recovered by action of debt to be brought in any of Her Majesty's Courts of Record in this Province: Provided always, that a recovery had against a mere occupier of the land, and without notice to the *Terre Tenant* shall have no greater effect than a recovery in ejectment would have had for the quantity of land assigned as Dower in such recovery.

SCHEDULE A.

In the Queen's Bench, Common Pleas, &c.,

A. B. who was (*or is, as the case may be*) the widow of C. D. deceased, demandant, and E. F. tenant.

Take notice that a declaration of which the annexed is a true copy, was this day filed in the Office of the Clerk (*or Deputy, as the case may be*) at _____ in the County of _____ (*or United Counties of _____ as the case may be*) and unless you plead thereto within twenty days from the service hereof, judgment will be signed against you by default, and subsequent proceedings and execution thereof follow thereon, according to law.

Dated the _____

day of _____

18 _____

J. K. Attorney, &c., residing at _____ in the County of _____

(*or United Counties of _____ as the case may be*)

To E. F. of the town of _____

(*as the case may be*) the above tenant.

or Receiver
of forfeiting
the premises
want to the
of debt to
ord in this
covery had
ad without
fect than a
ity of land

low of C.

is a true
Deputy, as

y be) and
the service
fault, and
v thereon,

18
residing at

ve tenant.

REAL

REAL ESTATE, DIVISION OF, TO RELATIVES.

C A P. V I.

AN ACT TO ABOLISH THE RIGHT OF PRIMOGENITURE IN THE SUCCESSION OF REAL ESTATE HELD IN FEE SIMPLE OR FOR THE LIFE OF ANOTHER, IN CANADA WEST, AND TO PROVIDE FOR THE DIVISION THEREOF AMONGST SUCH OF THE RELATIVES OF THE LAST PROPRIETOR, AS MAY BEST ACCORD WITH THE RELATIVE CLAIMS OF SUCH PARTIES IN THE DIVISION THEREOF.

[Assented to, 2nd August, 1851.]

WHEREAS it is expedient to abolish the right of Primogeniture in the succession to real estate held in fee simple or for the life of another, in Upper Canada, as such right now exists according to the laws in force in that section of the Province, and to provide for the divisions of such real estate amongst such of the relatives of the person last seized or possessed, and who shall have died without leaving any testamentary disposition thereof, as may best accord with the relative claims of such parties in the division thereof: Be it therefore enacted, &c., That whenever on or after the first day of January which will be in the year of our Lord one thousand eight hundred and fifty-two, any person shall die seized in fee simple or for the life of another of any real estate in Upper Canada, without having lawfully devised the same, such real estate shall descend or pass by way of succession in manner following, that is to say :

Preamble.

How real estate of an intestate dying after 1st January, 1852, shall descend.

- Firstly*—To his lineal descendants, and those claiming by or under them, *per stirpes* ;
 - Secondly*—To his father ;
 - Thirdly*—To his mother ; and
 - Fourthly*—To his collateral relatives ;
- Subject in all cases to the rules and regulations hereinafter prescribed.

II. And be it enacted, That if the intestate shall leave several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be.

As to descendants in equal degrees of consanguinity.

III.

If some children
be living and
others dead,
leaving issue.

III. And be it enacted, That if any of the children of such intestate be living, and any be dead, the inheritance shall descend to the children who are living, and to the descendants of such children as shall have died, so that each child who shall be living shall inherit such share as would have descended to him if all the children of the intestate who shall have died, leaving issue, had been living; and so that the descendants of each child who shall be dead shall inherit the share which their parent would have received if living, in equal shares.

Same rule as to
other descen-
dants in unequal
degrees of
consanguinity.

IV. And be it enacted, That the rule of descent prescribed in the last section shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, shall be of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who shall have died leaving issue, been living, and so that the issue of the descendants who shall have died, shall respectively take the shares which their parents if living would have received.

If the intestate
leave no descen-
dants rights of
father, mother,
&c.

V. And be it enacted, That in case the intestate shall die without lawful descendants, and leaving a father, then the inheritance shall go to such father,—unless the inheritance came to the intestate on the part of his mother, and such mother be living; and and if such mother be dead, the inheritance descending on her part shall go to the father for life, and the reversion to the brothers and sisters of the intestate and their descendants, according to the law of inheritance by collateral relatives hereinafter provided; and if there be no such brothers or sisters, or their descendants, living, such inheritance shall descend to the father.

If there be no
father entitled to
inherit.

VI. And be it enacted, That if the intestate shall die without descendant and leaving no father, or leaving a father not entitled to take the inheritance under the last preceding section, and leaving a mother and a brother or sister, or the descendant of a brother or sister, then the inheritance shall descend to the mother during her life, and the reversion to such brother or sister of the intestate as may be living, and the descendants of such as may be dead, according to the same law of inheritance hereinafter provided; and if the intestate in such case shall leave no brother or sister, nor any descendant of any brother or sister, the inheritance shall descend to the mother.

And if there be
neither father
nor mother.

VII. And be it enacted, That if there be no father or mother capable of inheriting the estate, it shall descend in the cases hereinafter specified

to the collateral relatives of the intestate; and if there be several of such relatives, all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from the intestate the common degree of consanguinity may be.

VIII. And be it enacted, That if all the brothers and sisters of the intestate be living, the inheritance shall descend to such brothers and sisters; and if any of them be living and any be dead then to the brothers and sisters and every of them who are living, and to the descendants of such brothers and sisters as shall have died, so that each brother or sister who shall be living, shall inherit such share as would have descended to him or her, if all the brothers and sisters of the intestate who shall have died leaving issue had been living, and so that such descendants shall inherit the share which their parent would have received, if living, in equal shares.

Succession of brothers and sisters and their descendants.

IX. And be it enacted, That the same law of inheritance prescribed in the last section shall prevail as to the other direct lineal descendants of every brother and sister of the intestate, to the remotest degree whenever such descendants are of unequal degrees.

As to such descendants in unequal degrees.

X. And be it enacted, That if there be no heir entitled to take under any of the preceding sections, the inheritance, if the same shall have come to the intestate on the part of his father shall descend:

If there be no heir under the preceding sections.

Firstly. To the brothers and sisters of the father of the intestate in equal shares, if all be living.

Secondly. If any be living, and any shall have died leaving issue, then to such brothers and sisters as shall be living, and to the descendants of such of the said brothers and sisters as shall have died, in equal shares.

Thirdly. If all such brothers and sisters shall have died, then to their descendants; and that in all such cases the inheritance shall descend in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate.

XI. And be it enacted, That if there be no brothers or sisters, or any of them, of the father of the intestate, and no descendants of such brothers and sisters, then the inheritance shall descend to the brothers and sisters of the mother of the intestate, and to the descendants of such of the said brothers and sisters as shall have died, or if all shall have died, then to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the father.

Further provision.

Further provision if the estate came by the mother's side.

XII. And be it enacted, That in all cases not provided for by the preceding sections, where the inheritance shall have come to the intestate on the part of his mother, the same, instead of descending to the brothers and sisters of the intestate's father, and their descendants, as prescribed in the preceding tenth section, shall descend to the brothers and sisters of the intestate's mother, and to their descendants, as directed in the next preceding section; and if there be no such brothers and sisters or descendants of them, then such inheritance shall descend to the brothers and sisters, and their descendants, of the intestate's father, as before prescribed.

If it came neither on father nor mother's side

XIII. And be it enacted, That in cases where the inheritance has not come to the intestate on the part of either the father or the mother, the inheritance shall descend to the brothers and sisters both of the father and mother of the intestate in equal shares, and to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate.

Half blood to succeed with whole blood.

XIV. And be it enacted, That relatives of the half blood shall inherit equally with those of the whole blood in the same degree, and the descendants of such relatives shall inherit in the same manner as the whole blood, unless the inheritance came to the intestate by descent, devise or gift of some one of his ancestors; in which case all those who are not of the blood of such ancestors shall be excluded from such inheritance.

If there be a failure of heirs.

XV. And be it enacted, That on a failure of heirs under the preceding rules, the inheritance shall descend to the remaining next of kin of the intestate, according to the rules in the English Statute of distribution of the personal estate.

Co-heirs to take as tenants in common.

XVI. And be it enacted, That whenever there shall be but one person entitled to inherit according to the provisions of this Act, he shall take and hold the inheritance solely; and wherever an inheritance, or a share of an inheritance, shall descend to several persons under the provisions of this Act, they shall take as tenants in common, in proportion to their respective rights.

Descendants, &c. born after death of intestate, but fore it.

XVII. And be it enacted, That descendants and relatives of the intestate begotten before his death, but born thereafter, shall in all cases inherit in the same manner as if they had been born in the life time of the intestate and had survived him.

XVIII. And be it enacted, That children and relatives who are illegitimate shall not be entitled to inherit under any of the provisions of this Act.

Illegitimate relations.

XIX. And be it enacted, That the estate of the husband as tenant by the courtesy, or of a widow as tenant in dower, shall not be affected by any of the provisions of this Act, nor shall the same affect any limitation of any estate by deed or will, or any estate which, although held in fee simple or for the life of another, is so held in trust for any other person, but all such estates shall remain, pass and descend, as if this Act had not been passed.

Tenancy by courtesy or in dower not affected.

As to estates held in trust.

XX. And be it enacted, That if any child of an intestate shall have been advanced by the intestate by settlement, or portion of real or personal estate, or of both of them, and the same shall have been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal estate of such intestate descendable to his heirs, and to be distributed to his next of kin according to law; and if such advancement be equal or superior to the amount of the share which such child would be entitled to receive of the real and personal estate of the deceased, as above reckoned, then such child and his descendants shall be excluded from any share in the real and personal estate of the intestate.

Case of children who have been advanced by settlement, &c.

XXI. And be it enacted, That if such advancement be not equal to such share, such child and his descendants shall be entitled to receive so much only of the personal estate, and to inherit so much only of the real estate of the intestate, as shall be sufficient to make all the shares of the children, in such real and personal estate and advancement to be equal, as near as can be estimated.

If such advancement be not equal.

XXII. And be it enacted, That the value of any real or personal estate so advanced shall be deemed to be that, if any, which may have been acknowledged by the child by an instrument in writing, otherwise such value shall be estimated according to the value of the property when given.

Value of property advanced how estimated.

XXIII. And be it enacted, That the maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life, shall not be deemed an advancement within the meaning of this Act.

Educating, &c., not advancement.

XXIV. And be it enacted, That it shall be lawful and competent for the parties authorized to make

As to the purchase, by any of

partition

the parties
interested, of
real estate sub-
ject to partition.

partition of any such real estate according to law, and they are hereby required to receive from any of the persons entitled to a share of such real estate, an offer or proposition to purchase the share or shares of the other parties interested therein, giving the preference, however, to the person who would have been the heir-at-law thereto, had this Act not been passed; and after such heir-at-law, then giving such preference to the several

persons successively who would have been such heirs-at-law had this Act not been passed, and had those persons preceding them respectively in the series of such preference been dead at the time of the death of the intestate; and the parties so authorized to make such partition, shall certify particularly to the Court in which proceedings for such partition may be commenced or pending, the particulars of such offer or proposition for purchase, the nature, quantity and value of the estate or share proposed to be purchased, and whether they advise such offer or proposition to be accepted or rejected, and their reasons therefor:

Sic.
Proviso.

Provided always, nevertheless, firstly, that it shall be competent to any Court authorized to make partition of real estate, to direct a sale of the same if they shall think it right so to do, upon the application of any of the parties beneficially interested therein, giving however the preference at all times to the person who would have been the heir-at-law to such real estate had this Act not been passed, and after such heir-at-law, then giving such preference to the several persons successively who would have been such heirs-at-law had this Act not been passed, and had those persons preceding them respectively in the series of such preference, been dead at the time of the death of the intestate: And provided also, secondly, that every such preference shall be upon and subject to such terms, security and conditions as such Court may think it right to direct.

Interpretation.

XXV. And be it enacted, That the term "real estate" as used in this Act, shall be construed to include every estate, interest and right, legal and equitable, held in fee simple or for the life of another (except as in the nineteenth section of this Act is before excepted) in lands, tenements and hereditaments in Upper Canada, but not to such as are determined or extinguished by the death of the intestate seized or possessed thereof, or so otherwise entitled thereto, nor to leases for years; and the term "inheritance," as used in this Act, shall be understood to mean real estate as herein defined, descended or succeeded to, according to the provisions of this Act.

Interpretation.

XXVI. And be it enacted, That whenever, in the preceding sections, any person is described as living, it shall be understood that he was living at the time of the death of the intestate from whom the descent or succession came, and when-

ever
stood

X
used
tate
shall
shall
the p
pare

X
apply
Can

II

AN

W
of Infa
Be it
seized
Estate
howsoe
by his
Upper
or a cor
poses
that no
Court o
Infant i

II. An
such app
factory t
part of s
either for
educatio
substanti

ing to law,
from any
such real
shares of
ence, how-
w thereto,
such heir-
he several
irs-at-law
preceding
n dead at
so autho-
rily to the
ommenced
n for pur-
or share
ch offer or
s therefor:
at it shall
to make
they shall
he parties
ference at
aw to such
ch heir-at-
s succes-
s Act not
spectively
me of the
hat every
s, security
ct.
erm "real
ude every
fee simple
section of
heredita-
ned or ex-
ed thereof,
; and the
erstood to
ceeded to,
enever, in
g, it shall
ath of the
nd when-
ever

ever any person is described as having died, it shall be understood that he died before such intestate.

XXVII. And be it enacted, That the expressions used in this Act, "where the estate shall have come to the intestate on the part 'of the father,' or 'mother,'" as the case may be, shall be construed to include every case where the inheritance shall have come to the intestate by devise, gift or descent, from the parent referred to, or from any relative of the blood of such parent.

XXVIII. And be it enacted, That this Act shall apply to that part of this Province called Upper Canada, and to none other.

Interpretation.
Act to apply to C. W. only.

INFANTS' REAL ESTATE ACT, (C. W.)

C A P. L X X I I.

AN ACT TO PROVIDE FOR THE SALE AND DISPOSITION OF THE REAL ESTATE OF INFANTS IN CANADA WEST, IN CERTAIN CASES THEREIN MENTIONED.

[Assented to, 30th May, 1849.]

WHEREAS it is expedient to authorize the Sale and Disposition of the Real Estate of Infants in certain cases where the same is for their benefit: Be it therefore enacted, &c., That any Infant seized or possessed of, or entitled to any Real Estate in fee, for a term of years, or otherwise howsoever, in Upper Canada, may, by his or her next friend, or by his or her guardian, apply to the Court of Chancery in and for Upper Canada, for the sale or other disposition of such property, or a competent part thereof, in manner and for any of the purposes hereinafter directed: Provided always, that no such application shall be made to the said Court of Chancery without the consent of such Infant if he or she be of the age of seven years or upwards.

Preamble.

Application may be made for leave to sell real estate of Infants.

Proviso as to infants of or over seven years.

II. And be it enacted, That whenever, upon any such application as aforesaid, it shall appear satisfactory to the said Court, that a disposition of any part of such Real Estate of such Infant is necessary and proper, either for the support and maintenance of such Infant or for his education, or that the interest of such Infant requires, or will be substantially promoted by such disposition, by reason of any part of

Court of Chancery may order the sale on certain conditions.

of his or her said property being exposed to waste and dilapidation, the Court may order the sale, or the letting for a term of years, or other disposition of such Real Estate or any part thereof, to be made under the direction of the Master of the said Court, or by the Guardian or Guardians of such Infant, or by any person appointed by the said Court for the purpose, in such manner and with such restrictions as to the said Court shall seem expedient, and may order the Infant to convey such Real Estate as the said Court shall think proper; and every such conveyance shall be as valid and effectual, to all intents and purposes, as if the Infant had been, at the time of making or executing the same, of the age of twenty-one years; Provided always, that no such Real Estate shall be so sold, leased, or otherwise disposed of as aforesaid in any manner, against the provisions of any last will or of any conveyance by which such Estate was devised or granted to such Infant, or for his or her use.

Court may order some person other than the Infant to make the conveyance.

III. And be it enacted, That where the said Court shall find or deem it more convenient that the conveyance to be made and executed in pursuance of the provisions of this Act, should be executed by some person in the place of the Infant, then and in such case it shall be lawful for the said Court of Chancery to direct any person whom such Court may think proper to appoint for that purpose, in the place of the Infant, to convey such estate to such person, and in such manner as the said Court shall think proper; and every such conveyance shall be as valid and effectual to all intents and purposes, as if the Infant had made and executed the same, and had been of the age of twenty-one years at the time of making and executing the same.

Application of money raised.

IV. And be it enacted, That the moneys arising from any such sale, lease or other disposition, as hereinbefore mentioned, shall be laid out, applied and disposed of in such manner as the said Court shall direct.

Money to represent the estate.

V. And be it enacted, That on any sale or other disposition which shall be made in pursuance of this Act, the moneys thereby raised, or the surplus thereof, as the case may be, shall be of the same nature and character as the Estate so sold or disposed of, and the heirs, next of kin, or other representatives of the Infant, shall have such and the like interest in any surplus which may remain of such moneys at the decease of such Infant, as they would have had in the Estate so sold or disposed of, if no such sale or other disposition had been made.

VI. And be it enacted, That if the Real Estate of any Infant applying as aforesaid, or any part of it, shall be subject to Dower, and the person entitled thereto shall consent in writing to accept such gross sum in lieu of such Dower as the Court shall think reasonable, or the permanent investment of a reasonable sum in such manner as that the interest thereof be made payable to the person entitled to the said Dower during her life, the said Court may direct the payment of such sum in gross or the investment of such other sum as aforesaid, as the case may be, which sums so paid or invested shall be taken out of the proceeds of the sale of the Real Estate of such Infant.

Assessment may be made with any person entitled to Dower, and paid out of money raised.

VII. And be it enacted, That the said Court shall have full power and authority to make all such rules and orders as may be requisite for carrying this Act into effect, or for regulating the proceedings under it.

Court to make rules, &c.

REAL PROPERTY TO TRANSFER ACT, (C. W.)

C A P. L X X I.

AN ACT TO SIMPLIFY THE TRANSFER OF REAL PROPERTY IN CANADA WEST, AND TO RENDER CERTAIN RIGHTS AND INTERESTS THEREIN LIABLE UNDER EXECUTION.

[Assented to, 30th May, 1849.]

FOR simplifying the Assurance of Property by Deeds, and for facilitating the remedy of Judgment Creditors against the Property of their Debtors: Be it enacted, &c., That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows, that is to say: the word "Land" shall extend to messuages, lands, tenements, and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof, and to any estate or interest thereon, and to money subject to be invested in the purchase of land or of any interest therein; the word "Conveyance" shall extend to a feoffment, grant, lease, surrender, or other assurance of land; the word "Person" shall extend to a corporation as well as an individual; and every

Preamble.

Interpretation of certain words in this Act.

word importing the singular number only, shall extend and be applied to several persons or things as well as to one person or thing; and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

Sections II., III., IV., and V. repealed.

Respecting the repealed sections in this Act, see 14 & 15 Vict., cap. 7, on page 357 in this work.

No implied warranty, &c., to be created by the word "Grant" or "Exchange."

VI. And be it enacted, That neither the word "Grant," nor the word "Exchange," in any deed shall have the effect of creating any warranty or right of re-entry, nor shall either of such words have the effect of creating any covenant by implication, except in cases where by any Act in force in Upper Canada, it is or shall be declared that the word "Grant" shall have such effect.

Sections VII., VIII., and IX. repealed.

Receipts of trustees to be effectual discharge.

X. And be it enacted, That the *bonâ fide* payment to and the receipt of any person to whom any money shall be payable upon any express or implied trust, or for any limited purpose, or of the survivors or survivor of two or more mortgagees or holders, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary shall be expressly declared by the instrument creating the trust or security.

Section XI. repealed.

The remedies for the rent and covenants in a lease, not to be extinguished by the merger of the immediate reversion.

XII. And be it enacted, That when the reversion of any land, expectant on a lease, shall be merged in any remainder or other reversion or estate, the person entitled to the estate into which such reversion shall have merged, his heirs, executors, administrators, successors, and assigns, shall have and enjoy the like advantage, remedy, and benefit against the lessee, his heirs, successors, executors, administrators and assigns, for non-payment of the rent, or for doing of waste or other forfeiture, or for not performing conditions, covenants, or agreements contained and expressed in his lease, demise or grant, against the lessee, farmer or grantee, his heirs, successors, executors, administrators and assigns, as the person who would for the time being have been entitled to the mesne reversion which shall have merged, would or might have had and enjoyed if such reversion had not been merged.

Any interest in lands which might be conveyed.

XIII. And be it enacted, That any estate, right, title or interest in lands which, under the provisions

sion
valid
shall
of re
of E
diti
and
con
with

XI
comm
the th
forty-
cuted
before
estate
one th

XV.
tend o

REAL

AN ACT
JEST
REAL
RIGHT

WH
ty's Reig
perty in
therein l
the seco
ninth, an
cited Ac

II. An
ments an
veyance
deemed t

end and be
e person or
nder only,
male.

er the word
n any deed
arranty or
such words
ion, except
ada, it is or
such effect.

at fide pay-
n to whom
y express or
urvivors or
e executors
ssigns, shall
m seeing to
sapplication
ared by the

n the rever-
se, shall be
reversion or
e into which
s heirs, exe-
all have and
st the lessee,
l assigns, for
er forfeiture,
ements con-
against the
cutors, admi-
for the time
ch shall have
uch reversion

estate, right,
er the provi-
sions

14 & 15 Vict. **TRANSFER ACT, AMENDED, (C. W.)** Cap. 7, 1851.

sions of the fifth section of this Act, might be validly conveyed or assigned by any party, shall be bound by the judgments of any Court of record, and shall be liable to seizure and sale under any Writ of Execution against such party, in like manner and on like conditions as lands of such party are now by law liable to seizure and sale under execution, and the Sheriff selling the same may convey and assign the same to the purchaser in like manner and with like effect as such party might himself have done.

ed under this Act
to be bound by
judgments liable
under execution.

XIV. And be it enacted, That this Act shall commence and take effect upon, from and after the thirty-first day of December, one thousand eight hundred and forty-nine, and shall not extend to any deed, act or thing executed or done, or (except so far as regards the provisions hereinbefore contained as to existing contingent remainders) to any estate, right or interest created, before the first day of January, one thousand eight hundred and fifty.

Commencement
of this Act.

XV. And be it enacted, That this Act shall extend only to Canada West.

Act to extend only
to C. W.

**REAL PROPERTY TRANSFER ACT, AMENDED,
(C. W.)**

C A P. VII.

AN ACT TO AMEND AN ACT PASSED IN THE TWELFTH YEAR OF HER MAJESTY'S REIGN, INTITULED, *AN ACT TO SIMPLIFY THE TRANSFER OF REAL PROPERTY IN CANADA WEST, AND TO RENDER CERTAIN RIGHTS AND INTERESTS THEREIN LIABLE UNDER EXECUTION.*

[Assented to, 2d August, 1851.]

WHEREAS it is expedient to amend an Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to simplify the transfer of real property in Upper Canada, and to render certain rights and interests therein liable under execution*: Be it therefore enacted, &c., That the second, third, fourth, fifth, seventh, eighth, ninth, and eleventh sections of the said first recited Act be and the same are hereby repealed.

Preamble.

Certain sections
of 12 Vict. cap. 71
repealed.

II. And be it enacted, That all corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant, as well as in livery.

Corporeal tenements, &c., deemed to lie in grant, &c.

Fooffments unless by deed, to be void.

III. And be it enacted, That a fooffment, otherwise than by deed, shall be void at law, and no fooffment shall have any tortious operation.

Partition on exchange of tenements, &c., unless by deed to be void.

IV. And be it enacted, That a partition and an exchange of any tenements and hereditaments, and a lease required by law to be in writing of any tenements and hereditaments, and an assignment of a chattel interest in any tenements or hereditaments, and a surrender in writing of any tenements or hereditaments not being an interest which might by law have been created without writing, shall be void at law, unless made by deed.

Certain interest in tenements may be disposed of by deed.

V. And be it enacted, That a contingent, an executory and a future interest and a possibility coupled with an interest in any tenements or hereditaments of any tenure, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent into or upon any tenements or hereditaments of any tenure, may be disposed of by deed, but that no such disposition shall by force only of this Act defeat or enlarge an estate tail, and that any such disposition by a married woman shall be made conformably to the provisions of any Act in force at the time of such disposition for enabling married women to convey their real estate.

Certain contingent remainders made valid.

VI. And be it enacted, That a contingent remainder, existing at any time after the thirtieth day of May, one thousand eight hundred and forty-nine, and if created before the passing of this Act, shall be deemed to have been capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger, of any preceding estate of freehold.

Effect of surrender or merger of reversions expectant on a lease in certain cases.

VII. And be it enacted, That when the reversion expectant on a lease made either before or after the passing of this Act of any tenements or hereditaments of any tenure, shall be surrendered or merged, the estate which shall for the time being confer, as against the tenant under the same lease, the next vested right to the same tenements or hereditaments, shall, to the extent and for the purpose of preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the same lease.

Executor of deceased mortgagee may convey or re-

VIII. And be it enacted, That when any person entitled to any freehold or leasehold land by way

of
and
enti
sent
debt
men
gag
tator
the s
exec
any
gag
any
such
the s

IX.
tion
applic
lands
of this

LE

AN

W
therefor
passing
party to
made in
in such
of the S
ber then
and be o
form of
and disti
of words
in any su

ap. 7, 1851.

ment, other-
w, and no

ion and an
editaments,
ting of any
f a chattel
rrender in
an interest
g, shall be

ent, an ex-
possibility
ts or here-
ft or limit-
ained, also
her vested
taments of
o such dis-
e an estate
an shall be
orce at the
to convey

ingent re-
e thirtieth
and forty-
be deemed
the deter-
preceding

the rever-
before or
ements or
rrendered
confer, as
ed right to
ent and for
gations on
ger thereof
ant on the

any person
nd by way
of

14 & 15 Vict.

LEASING OF LANDS, ETC., (C. W.)

Cap. 8, 1851.

of mortgage, has or shall have departed this life, and his executor or administrator is or shall be entitled to the money secured by the mortgage, or shall have assented to a bequest thereof, or shall have assigned the mortgage debt, such executor or administrator shall have power, on payment of the principal money and interest due on the said mortgage, or if the mortgage money shall have been paid to the mortgagor or intestate in his lifetime, to convey, release and discharge the said mortgage debt and the legal estate in the land; and such executor or administrator shall also have the same power as to any portion of the lands, on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged lands without payment of money, and such conveyance, release or discharge shall be as effectual as if the same had been made by any person having the legal estate.

lease to the lands
mortgaged in cer-
tain cases.

IX. And be it enacted, That the thirteenth section of the said recited Act shall extend and be applied to any estate, right or title or interest in lands which may be disposed of by deed under the fifth section of this Act.

Section 13 of
above Act ex-
tended.

LEASING OF LANDS AND TENEMENTS, (C. W.)

CAP. VIII.

AN ACT TO FACILITATE THE LEASING OF LANDS AND TENEMENTS.

[Assented to, 2d August, 1851.]

WHEREAS it is expedient to facilitate the leasing of lands and tenements: Be it therefore enacted, &c., That from and after the passing of this Act, whenever any person, being a party to any deed which shall be expressed to be made in pursuance of this Act, shall employ in such deed any of the forms of words contained in column one of the Schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect and be construed as if such person had inserted in such deed the form of words contained in column two of the same Schedule, and distinguished by the same number as is annexed to the form of words employed by such person, but it shall not be necessary in any such deed to insert any number.

Preamble.

Form of words in
column 1 of Sched-
ule to be con-
strued as in col-
umn 2.

Lessee to include all appurtenances of the property demised.

II. And be it enacted, That every such deed, unless any exception be specially made therein, shall be held and construed to include all out-houses, buildings, barns, stables, yards, gardens, cellars, ancient and other lights, paths, passages, ways, waters, water courses, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands and tenements therein comprised belonging or in anywise appertaining.

Effect if the Deed do not take effect under this Act.

III. And be it enacted, That any deed or part of a deed, which shall fail to take effect by virtue of this Act, shall nevertheless be as valid and effectual by virtue of this Act, shall nevertheless be as valid and of law and equity will permit, as if this Act had not been made.

Act to apply to C. W. only.

IV. And be it enacted, That this Act shall be in force only in Upper Canada.

SCHEDULE.

Column 1.

1. That the said (*lessee*) covenants with the said (*lessor*) to pay rent.

2. And to pay taxes.

3. And to repair.

Column 2.

1. And the said lessee doth hereby for himself, his heirs, executors, administrators and assigns covenant with the said lessor that he, the said lessee, his executors, administrators and assigns will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

2. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof.

3. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances, in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made, when, where, and so often as need shall be.

such deed,
de therein,
de all out-
ers, ancient
er courses,
moluments,
lands and
appertain-

ed or part
t by virtue
lid and ef-
lid and ef-
n made.
et shall be

hereby for
ministrators
said lessor
utors, ad-
uring the
or the rent
reinbefore
on whatso-

kes, rates,
r, whether
wise, now
rged upon
on the said

said term,
in, amend
mises with
substantial
gs thereto
during the
de, when,
be.

4.

4. And to keep
up fences.

5. And not to cut
down timber.

6. And that the
said (*lessor*) may
enter and view state
of repair, and that
the said (*lessee*) will
repair according to
notice.

7. And will not
assign or sub-let
without leave.

8. And that he
will leave the pre-
mises in good re-
pair.

4. And also will, from time to time,
during the said term, keep up the fences
and walls of or belonging to the said pre-
mises, and make anew any parts thereof
that may require to be new-made in a good
and husbandlike manner, and at proper
seasons of the year.

5. And also will not at any time, during
the said term, hew, fell, cut down or destroy,
or cause or knowingly permit or suffer to
be hewed, felled, cut down or destroyed,
without the consent in writing of the lessor,
any timber or timber trees, except for ne-
cessary repairs, or firewood, or for the pur-
pose of clearance as herein set forth.

6. And it is hereby agreed that it shall
be lawful for the lessor and his agents, at
all reasonable times during the said term,
to enter the said demised premises to ex-
amine the condition thereof, and further
that all want of reparation that upon such
view shall be found, and for the amend-
ment of which notice in writing shall be
left at the premises, the said lessee, his ex-
ecutors, administrators and assigns will,
within three calendar months next after
such notice, well and sufficiently repair
and make good accordingly.

7 And also that the lessee shall not nor
will, during the said term, assign, transfer
or set over, or otherwise by any act or deed
procure the said premises or any of them
to be assigned, transferred, set over or sub-
let unto any person or persons whomsoever
without the consent in writing of the lessor,
his heirs or assigns first had and obtained.

8. And further, the lessee will, at the ex-
piration or other sooner determination of
the said term, peaceably surrender and
yield up unto the said lessor the said pre-
mises hereby demised with the appurten-
ances, together with all buildings, erections
and fixtures thereon, in good and substan-
tial repair and condition, reasonable wear
and tear and damage by fire only excepted.

9.

9. Proviso for re-entry by the said (*lessor*) on non-payment of rent or non-performance of covenants.

9. Provided always, and it is hereby expressly agreed, that if the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, his executors, administrators or assigns, then and in either of such cases it shall be lawful for the lessor at any time thereafter, into and upon the said demised premises, or any part thereof, in the name of the whole, to re-enter, and the same to have again, re-possess and enjoy, as of his or their former estate; anything hereinafter contained to the contrary notwithstanding.

10. The said (*lessor*) covenants with the said (*lessee*) for quiet enjoyment.

10. And the lessor doth hereby for himself, his heirs, executors, administrators and assigns, covenant with the lessee, his executors, administrators and assigns that, he and they paying the rent hereby reserved, and performing the covenants hereinbefore on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, his heirs, executors, administrators and assigns, or any other person or persons lawfully claiming by, from or under him, them or any of them.

Directions as to the Forms in the Schedule.

1. Parties who use any of the forms in the first column of this Schedule, may substitute for the words "lessee" or "lessor" any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the form in the first column of the Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualification

hereby ex-
t hereby re-
ll be unpaid
the days on
been paid,
ll have been
e breach or
e covenants
ned on the
rs, adminia-
ther of such
ssor at any
the said de-
treat, in the
r, and the
and enjoy,
; anything
ontrary not-

by for him-
rators and
ee, his exe-
ns that, he
y reserved,
ereinbefore
, shall and
the said de-
by granted,
disturbance
ators, admi-
ther person
py, from or
.

first column
lessee" or
ase corres-
the corres-

der for the
the form in
g changes
rms in the

any of the
or express
ualification

qualification thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Where the premises demised are of freehold tenure, the covenants 1 to 8 shall be taken to be made with, and the proviso 9 to apply to the heirs and assigns of the lessor; and where the premises demised shall be of leasehold tenure, the covenants and proviso shall be taken to be made with, and apply to, the lessor, his executors, administrators and assigns.

CONVEYANCE OF REAL PROPERTY, (C. W.)

CAP. VI.

AN ACT TO FACILITATE THE CONVEYANCE OF REAL PROPERTY IN CANADA WEST.

[Assented to, 18th May, 1846.]

WHEREAS it is expedient to facilitate the sale and conveyance of Real Property: Be it therefore enacted, &c., That whenever any party to any deed made according to the forms set forth in the first Schedule to this Act, or to any other deed which shall be expressed to be made in pursuance of this Act, or referring thereto, shall employ in any such deed respectively any of the forms or words contained in column one, of the second Schedule hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if such party had inserted in such deed the form of words contained in column two of the same Schedule, and distinguished by the same number as is annexed to the form of words employed by such party; but it shall not be necessary, in any such deed, to insert any such number.

II. And be it enacted, That every such deed, unless any exception be specially made therein, shall be held and construed to include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, woods, trees, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised, belonging or in any wise appertaining, or with the same demised, held, used, occupied

Preamble.

Where the words of column 1 of the second Schedule are employed, the deed to have the same effect as if the words in column 2 were inserted.

Deed to include all houses, &c., and the reversion and all the estate.

cupied and enjoyed, or taken or known as part or parcel thereof; and also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands, and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, both at law and in equity, of the grantor, in, to, out of, or upon the same lands, and every part and parcel thereof, with their and every of their appurtenances.

Remuneration for deeds under the Act not to be by length only.

III. And be it enacted, That in taxing any bill for preparing and executing any deed under this Act, it shall be lawful for the taxing officer, and he is hereby required, in estimating the proper sum to be charged for such transaction, to consider not the length of such deed, but the skill and labour employed and responsibility incurred in the preparation thereof.

Deeds failing to take effect under this Act to be as valid as if Act not made.

IV. And be it enacted, That any deed or part of a deed, which shall fail to take effect by virtue of this Act, shall, nevertheless, be as valid and effectual, and shall bind the parties thereto, so far as the rules of law and equity will permit, as if this Act had not been made.

Construction of Act.

V. And be it enacted, That in the construction, and for the purposes of this Act, and the Schedules hereto annexed, unless there be something in the subject or context repugnant to such construction, the word "lands" shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein, respectively; and every word importing the singular number only shall extend and be applied to several persons or things as well as to one person or thing, and the converse; and every word importing the masculine gender only shall extend and be applied to a female as well as a male; and the word "party" shall mean and include any body politic or corporate or collegiate as well as an individual.

Schedules, &c., to form part of Act.

VI. And be it enacted, That the Schedules, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act.

Commencement of Act.

VII. And be it enacted, That this Act shall only apply to deeds executed upon or after the First day of June next.

To extend only to lands in Canada West.

VIII. And be it enacted, That this Act shall only extend to lands in that part of the Province of Canada formerly Upper Canada.

SCHEDULES TO WHICH THIS ACT REFERS.

THE FIRST SCHEDULE.

This indenture, made the _____ day of _____, in pursuance of the one thousand eight hundred and _____, in pursuance of the Act to facilitate the conveyance of real property, between (here insert names of parties and recitals, if any), Witnesseth, that in consideration of _____ pounds, of lawful money of Canada, now paid by the said *grantee or grantees* to the said *grantor or grantors* (the receipt whereof is hereby by him (or them) acknowledged), he (or they the said *grantor or grantors*) doth (or do) grant unto the said *grantee or grantees* his (or their) heirs and assigns for ever, all, &c., (*parcels*). (*Here insert covenants or any other provisions*). In witness whereof the said parties hereto have hereunto set their hands and seals.

THE SECOND SCHEDULE.

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule may substitute for the words "covenantor" or "covenantee," or "releasor" or "releasee," or "grantor" or "grantee," any name or names, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.
2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule, and the corresponding changes shall be taken to be made in the corresponding forms in the second column.
3. Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.
4. Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words, at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants two, three and four, or such of them as shall be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons, so named.

Column 1.

1. The said (covenantor) covenants with the said (covenantee).

2. That he has the right to convey the said lands to the said (covenantee) notwithstanding any act of the said (covenantor).

3. And that the said (covenantee) shall have quiet possession of the said lands.

4. Free from all incumbrances.

Column 2.

And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said covenantee, his heirs and assigns, in manner following (*that is to say*):

2. That for and notwithstanding any act, deed, matter or thing, by the said covenantor, done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said covenantor, now hath in himself good right, full power, and absolute authority to convey the said lands and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said covenantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said covenantee, his heirs and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances: and to have, receive and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from, or by him the said covenantor, or his heirs, or any person claiming, or to claim, by, from, under, or in trust for him, them, or any of them.

4. And that free and clear, and freely and absolutely acquitted, exonerated, and for ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless, and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble, and incumbrance whatsoever, made, executed

hereby, for
and adminis-
agree, with
his heirs and
it is to say):

ing any act,
d covenant-
knowingly
to the con-
now hath in
and abso-
d lands and
evey, or in-
d every of
said cove-
d according
nts.

for the said
s, from time
s, peaceably
hold, oe-
d lands and
ntended so
their appur-
and take
eof, and of
s and their
let, suit,
tion, claim
or by him
rs, or any
om, under,
of them.

and freely
rated, and
by the said
sufficiently
nnified of,
ormer and
, jointure,
atute, re-
n, extent,
, and any
e, trouble,
nade, exe-
cuted

5. And the said
(covenantor) cove-
nants with the said
(covenantee) that
he will execute such
further assurances
of the said lands as
may be requisite.

cuted, occasioned, or suffered by the said
covenantor or his heirs, or by any person
claiming, or to claim, by from, under, or in
trust for him, them, or any of them.

5. And the said covenantor doth hereby,
for himself, his heirs, executors and admin-
istrators, covenant, promise, and agree
with, and to the said covenantee, his heirs
and assigns, that he, the said covenantor,
his heirs, executors and administrators, and
all and every other person whosoever hav-
ing or claiming, or who shall or may here-
after have or claim any estate, right, title
or interest whatsoever, either at law or in
equity, in, to, or out of the said lands and
premises hereby conveyed, or intended so
to be, or any of them, or any part thereof,
by, from, under, or in trust for him, them,
or any of them, shall and will, from time
to time, and at all times hereafter, upon
every reasonable request, and at the cost
and charges of the said covenantee, his
heirs or assigns, make, do, execute, or cause
to be made, done, or executed, all such
further and other lawful acts, deeds, things,
devices, conveyances, and assurances in the
law whatsoever, for the better, more per-
fectly, and absolutely conveying and assur-
ing the said lands and premises hereby con-
veyed, or intended so to be, and every part
thereof, with their appurtenances, unto the
said covenantee, his heirs and assigns, in
manner aforesaid, as by the said covenantee,
his heirs and assigns, his or their counsel in
the law, shall be reasonably devised, ad-
vised or required, so as no such further
assurances contain or imply any further
or other covenant or warranty than against
the acts and deeds of the person who shall
be required to make or execute the same,
and his heirs, executors or administrators
only, and so as no person who shall be re-
quired to make or execute such assurances,
shall be compellable for the making or ex-
ecuting thereof, to go or travel from his
usual place of abode.

6. And the said (covenantor) covenants with the said (covenantee) that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said (covenantee.)

6. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said covenantee, his heirs and assigns, that the said covenantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said covenantee, his heirs or assigns, or his or their attorney, solicitor, agent, or counsel, at any trial or hearing in any action or suit at law or in equity, or other judicature, or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said covenantee, his heirs and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested, or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said covenantee, his heirs and assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said (covenantor) covenants with the said (covenantee) that he has done no act to encumber the said lands.

7. And the said covenantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree with and to the said covenantee, his heirs and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof, are, is, or shall or may be in any wise impeached, charged, affected, or encumbered in title, estate or otherwise howsoever.

doth hereby,
s and admi-
d agree with
his heirs and
ntor and his
ented by fire
rom time to
r, at the re-
e said cove-
his or their
unsel, at any
r suit at law
re, or other-
, produce all
ent or writ-
anifestation,
ate, title and
tee, his heirs
d lands and
intended so
t, costs and
and deliver,
livered, true
abstracts of
nd writings
nd shall and
opies and ab-
mpared with
e said cove-
such person
urpose direct

for himself,
strators, doth
agree with
his heirs and
y time here-
executed, or
nd any act,
er, whereby
d lands and
intended so
ereof, are, is,
impeached,
red in title,

8.

8. And the said
(*releasor*) releases
to the said (*releas-
ee*) all his claims
upon the said lands.

8. And the said releasor hath released,
remised, and for ever quitted claim, and by
these presents doth release, remise, and for
ever quit claim, unto the said releasee, his
heirs and assigns, all and all manner of
right, title, interest, claim, and demand
whatsoever, both at law and in equity, into
and out of the said lands and premises
hereby granted, or intended so to be, and
every part and parcel thereof, so as that
neither he nor his heirs, executors, adminis-
trators, or assigns shall nor may, at any
time hereafter, have, claim, pretend to,
challenge, or demand the said land and
premises, or any part thereof, in any man-
ner howsoever, but the said releasee, his
heirs and assigns, and the same lands and
premises shall from henceforth for ever
hereafter be exonerated and discharged of
and from all claims and demands whatso-
ever, which the said releasor might or
could have upon him in respect of the said
lands, or upon the said lands.

9. And the said
(A. B.) wife of the
said (*grantor*) here-
by bars her dower
in the said lands.

9. And the said (A. B.) wife of the said
(*grantor*) for and in consideration of the
sum of _____ pounds,
of the lawful money of Canada, to her in
hand paid by the said (*grantee*) at or be-
fore the sealing and delivery of these pre-
sents, the receipt whereof is hereby ac-
knowledgeed, hath granted and released,
and by these presents doth grant and re-
lease unto the said (*grantee*), his heirs and
assigns, all her dower and right and title
which, in the event of surviving her said
husband, she might or would have to dower,
in, to or out of the lands and premises
hereby conveyed, or intended so to be,

DEEDS AND INSTRUMENTS FROM THE CROWN, (C. W.)

C A P. I X.

AN ACT TO COMPEL THE REGISTRATION OF DEEDS AND INSTRUMENTS CREATING DEBTS TO THE CROWN.

[Assented to, 2d August, 1851.]

Preamble.

WHEREAS it is desirable that all deeds and instruments under seal or of record, whereby any debt, duty or obligation has been or may be created to Her Majesty the Queen, or Her Successors, shall be registered in manner hereafter mentioned, in order to bind the lands of the parties executing the same or affected thereby: Be it therefore enacted, &c., That from and after the passing of this Act, no deed, bond, contract or other instrument whatever, under seal or of record, whereby any debt, obligation or duty shall be incurred or created to Her Majesty the Queen, or Her Successors, shall be deemed valid or sufficient to charge or affect any lands or any interest in lands of the person or persons executing the same or affected thereby, as against any subsequent purchaser or mortgagee for valuable consideration of the same lands of such person or persons, or against any subsequent registered judgment on the same lands against such person or persons, unless a copy of such deed, bond, contract or other instrument, certified by the proper officer having the custody of the same, shall be registered in the Office of the Clerk of the Court of Queen's Bench in Toronto, before the execution of the deed, conveyance or agreement of such subsequent purchaser or mortgagee, or the registry of such subsequent judgment.

Such instruments to be registered in a separate book.

II. And be it enacted, That it shall be the duty of the said Clerk of the Court of Queen's Bench, and he is hereby required upon the production to him of a copy of any such deed, bond, contract or other instrument as aforesaid, certified by the proper officer having the custody of the same, to enter and register the same in a book to be kept by him for that purpose, and from and after such registry all the lands of the person or persons executing such deed, bond, contract or other instrument, shall be bound and charged thereby.

M THE

STRUMENTS

ust, 1851.]

all deeds and
of record,
y be created
be registered
lands of the
e it therefore
e passing of
e other instru-
rd, whereby
e incurred or
or Her Suc-
ent to charge
lands of the
thereby, as
or valuable
persons, or
same lands
deed, bond,
fficer having
Office of the
ore the exe-
subsequent
equent judg-

be the duty
een's Bench,
roduction to
other instru-
having the
in a book to
uch registry
deed, bond,
ged thereby.
III.

9 Vict.

REGISTRY LAWS, (C. W.)

Cap. 34, 1846.

III. And be it enacted, That it shall be lawful for the Governor in Council, if he shall think fit, to order that all or any lands bound by such deed, bond, contract or other instrument, shall be released from the charge created thereby, and upon the production of such order certified by the President or Clerk of the Executive Council, it shall be the duty of the said Clerk of the said Court of Queen's Bench, to enter and register the same in the said book as a release of such lands as shall be mentioned in such order, and upon the same being so entered and registered such lands shall be released accordingly.

Governor in Council may release lands bound by such instruments.

IV. And be it enacted, That the said Clerk of the said Court of Queen's Bench shall be entitled to demand and receive from the person producing the same for registry, the sum of Five Shillings for the registry of any such deed, bond, contract or other instrument or release, to be paid to the fee fund in the same manner as other fees are paid to the said fund.

Fee to Registrar.

V. And be it enacted, That all such deeds, bonds, contracts or other instruments made before the passing of this Act to Her Majesty, or Her Predecessors, of the nature mentioned in the first section of this Act, shall be registered in the manner in the second section mentioned within one year from the passing of this Act, or in default thereof, any lands or interest in lands of the person or persons who shall have executed the same shall be freed and discharged therefrom as to any subsequent purchaser or mortgagee or registered judgment creditor of such person or persons of the same lands for valuable consideration.

Such instrument made before the passing of this Act to be registered within a certain time.

VI. And be it enacted, That this Act shall apply only to Upper Canada.

Extent of Act.

REGISTRY LAWS, (C. W.)

CAP. XXXIV.

AN ACT TO CONSOLIDATE AND AMEND THE REGISTRY LAWS OF THAT PART OF THIS PROVINCE WHICH WAS FORMERLY UPPER CANADA.

[Assented to, 9th June, 1846.]

WHEREAS it is expedient to revise the several Laws now in force respecting the Public Registering of Deeds, Conveyances, Wills, and other instruments which may affect any Lands, Tenements or Hereditaments,

Preamble.

ditaments, in Upper Canada; And whereas, also, it is desirable that some provision should be made for the Registering of Judgments: Be it therefore enacted, &c., That the Act of the Legislature of the late Province of Upper Canada, passed in the thirty-fifth year of the Reign of His late Majesty King George the Third, and intituled, *An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances which shall be made, or may affect any Lands, Tenements or Hereditaments, within this Province*; and the Act of the said Legislature, passed in the thirty-seventh year of the same Reign, and intituled, *An Act to supply the want of enrolment of Deeds of Bargain and Sale*; and the Act of the said Legislature passed in the fifty-eighth year of the same Reign, and intituled, *An Act to provide for the Enregistering of Deeds, Conveyances, Wills, and other Incumbrances, which may affect any Lands, Tenements and Hereditaments, the same being executed in the United Kingdom of Great Britain and Ireland, or in any of Her Majesty's Colonies, and to amend an Act passed in the thirty-fifth year of His Majesty's Reign, intituled, 'An Act for the Public Registering of Deeds, Conveyances, Wills, and other Incumbrances, which shall be made, or may affect any Lands, Tenements, or Hereditaments, within this Province'*; and the Act of the said Legislature, passed in the fourth year of the Reign of King William the Fourth, and intituled, *An Act concerning the release of mortgages*; shall be and the said Acts are hereby repealed.

Repeal.

Proceedings under the said Acts to remain valid.

II. And be it enacted, That no proceeding, matter or thing, had or done under and by virtue of the above repealed Acts, shall be altered or rendered invalid by the passing of this Act.

A Registry Office to be kept in each County in Canada West.

III. And be it enacted, That there be a Registry Office kept in each and every County in Upper Canada by a Registrar appointed as hereinafter provided, being resident therein; and that when and so often as any new County shall be formed in Upper Canada, it shall and may be lawful for the Governor of this Province to appoint a proper and sufficient person to hold and perform the duties of the Office of Registrar therein, and also in like manner to fill up any vacancy or vacancies which may occur either by death, resignation, removal or forfeiture of any of the Registrars heretofore or hereafter to be appointed for any such County; Provided always, that all such appointments shall be made under the Great Seal of this Province, and some convenient place in the County shall be named in the Commission, where the office of the Registrar shall be held until otherwise ordered.

Proviso.

it is desirable
ring of Judg-
of the Legis-
in the thirty-
Majesty King
n Act for the
and other In-
Lands, Tene-
the Act of the
seventh year
Act to supply
Sale; and the
in the fifty-
intituled, An
Conveyances,
y Lands, Te-
in the United
of Her Majes-
irty-fifth year
Public Regis-
Incumtrances,
ements, or He-
f the said Le-
f the Reign of
tuled, An Act
shall be and

ceeding, mat-
d by virtue of
red invalid by

be a Registry
nty in Upper
as hereinafter
nd so often as
, it shall and
e to appoint a
e duties of the
to fill up any
death, resigna-
heretofore or
provided always,
e made under
ient place in
ere the office
d.

IV.

IV. And be it enacted, That there shall be a Registrar appointed, to be resident in each and every County in Upper Canada, who shall keep an office in the same at the place named in his Commission, or at such other place as may be appointed by proclamation, according to the provisions of this Act.

A Registrar to be appointed in each County.

V. And be it enacted, That it shall and may be lawful for any Registrar appointed, or hereafter to be appointed, for any County in Upper Canada, from time to time, and so often as such Registrar shall think fit, to nominate a Deputy in his office, and to remove him, and appoint another in his place, whenever he may think it necessary to do so: Provided always, that in case of the death, resignation, removal or forfeiture of office of any Registrar, it shall and may be lawful for the Deputy Registrar for the time being to do and perform all and every act, matter and thing, necessary for the due execution of the said office, until a new appointment shall be made.

Registrars may appoint Deputies.

Proviso.

VI. And be it enacted, That from and after the confirmation of any Lands to any person or persons, by grant from the Crown, a memorial of all Deeds and Conveyances which shall be made and executed, and of all Wills and Devises in writing made or to be made and published, when the Devisor or Testator shall die, after making and publishing the same, of or concerning and whereby any lands, tenements or hereditaments, in any County or Riding of that part of this Province called Upper Canada, may be in any wise affected in law or equity, may, at the election of the party or parties concerned, be registered in such manner as is herein-after directed; and that every Deed and Conveyance that shall, at any time after any memorial is so registered, be made and executed of the lands, tenements or hereditaments, or any part thereof, comprised or contained in any such memorial, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial be registered as by this Act is directed, before the registering of the memorial of the Deed or Conveyance under which such subsequent purchaser or mortgagee shall claim; and that every devise by Will of the lands, tenements or hereditaments, or of any part thereof, mentioned and contained in any memorial registered as aforesaid, and that shall be made and published after the registering of such memorial, shall be adjudged fraudulent and void against a subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such Will be registered as hereinafter directed; and a memorial of any further mortgage or mortgages (whether legal or equitable) to a first mortgagee

What Deeds and Instruments may be registered.

Deeds not registered to be void as against subsequent purchasers whose Deeds are registered.

The same as to devises.

And as to further mortgages to a first mortgagee.

or mortgagees, shall in like manner be registered before it can or shall prevail against a second mortgagee of the whole or any part of the lands, tenements, hereditaments and premises comprised in the first mortgage.

Memorials must be put in writing and brought to the office.

VII. And be it enacted, That all and every memorial or memorials to be entered and registered, shall be put into writing, and brought or transmitted to the said office, and in case of Deeds and Conveyances, shall be under the hand and seal of some or one of the Grantors, or some or one of the Grantees, his or their Heirs, Executors or Administrators, Guardians or Trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such Deed or Conveyance, which witness shall, upon oath (except in cases otherwise provided for by this Act) before the said Registrar or his Deputy, or before any Judge of Her Majesty's Court of Queen's Bench, or any Judge of a County Court, or any Commissioner of the said Court of Queen's Bench in Upper Canada, prove the signing and sealing of such memorial, and the execution of the Deed or Conveyance mentioned in such memorial; and in case of Wills, the memorial shall be under the hand and seal of some or one of the Devises, his or their Heirs, Executors or Administrators, Guardians or Trustees, attested by two witnesses, one whereof shall, upon oath before either of the parties aforesaid, prove the signing and sealing of such memorial, which respective oaths the said several parties hereinbefore mentioned are hereby empowered to administer, and shall endorse a certificate thereof on every such memorial and sign the same.

See Section 5 of 13 & 14 Vict., cap. 63, on page 384 in this work, with respect to affidavits under this Act taken in Canada East.

Memorial of any Deed, &c., to contain date of such Deed, &c.

VII. And be it enacted, That every memorial of every Deed, Conveyance or Will shall contain the day of the month and the year when such Deed Conveyance or Will bears date, and the names and additions of all the parties to such Deed, Conveyance or Will, or the Devisor or Testatrix of such Will, (as mentioned or set forth in such Deed, Conveyance or Will,) and of all the witnesses to such Deed, Will or Conveyance, and the places of their abode, and shall express or mention the lands, tenements or hereditaments contained in such Deed, Will or Conveyance, and the names of all the Townships or Parishes within the said County or Counties, Ridings or Ridings, where any such lands, tenements or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such Deed, Will or Conveyance, in such manner as the same are expressed or mentioned in such Deed, Will, or Conveyance, or to the same effect; and that such Deed, Conveyance, or Will, or Probate of the

re it can or
sole or any
nises com-

every me-
registered,
or trans-
d Convey-
one of the
eir Heirs,
attested by
to the ex-
hall, upon
(act) before
f Her Ma-
nty Court,
h in Upper
al, and the
ch memo-
al shall be
of the De-
Adminis-
resses, one
aforesaid,
respective
are hereby
ate thereof

with respect

memorial
ll contain
such Deed
dditions of
e Devisor
uch Deed,
uch Deed,
d shall ex-
contained
of all the
ities, Rid-
heredita-
veyed, de-
ch Deed,
expressed
the same
Probate of
the

the same, of which such memorial is to be registered as aforesaid, shall be produced to the said Registrar or his Deputy at the time of entering such memorial, who shall endorse a certificate on every such Deed, Conveyance and Will, or Probate thereof, and therein mention the certain day, hour and time on which such memorial is entered and registered, expressing also in what book, page and number the same is entered, and that the said Registrar or his Deputy shall sign the said certificate when so endorsed, which certificate shall be taken and allowed as evidence of such respective registries in all Courts of Record whatsoever; and that every page of such Register Book, and every memorial that shall be entered therein shall be numbered, and the day of the month and the year and hour or time of the day when every memorial is registered, shall be entered in the margins of the said Register Books and of the said memorial; and that every such Registrar shall keep an alphabetical calendar of all Townships and Parishes within the said County or Counties, Riding or Ridings, with reference to the number of every memorial that concerns the lands, tenements or hereditaments in every such Township or Parish respectively, and of the names of the parties mentioned in such memorial; and the said Registrar shall enter and register the said memorials in the same order that they shall respectively come to his hand.

IX. *This section repealed by 16 Vict., cap. 187. See page 388 in this work.*

X And be it enacted, That a memorial of any such Deed, Conveyance or Will, as aforesaid, which shall have been or may be hereafter executed or published in any place without the limits of Upper Canada, shall be registered as aforesaid by the Registrar or his Deputy of any County in Upper Canada, in case an affidavit or declaration in writing in cases where by law a declaration is substituted for an affidavit, shall have been or shall hereafter be sworn before the Mayor or Chief Magistrate of any City, Borough or Town Corporate in Great Britain or Ireland, under the Common Seal of such City, Borough, or Town Corporate, or before the Chief Justice or Judge of any Court of Queen's Bench in Lower Canada, or of the Supreme Court of any Colony belonging to the Crown of Great Britain, or before the Mayor of any City, Borough, or Town Corporate, in any foreign country, or any Consul or Vice-Consul of Her Majesty resident therein, and be brought to the said Registrar or his Deputy, wherein one of the witnesses to the execution of such Deed, Conveyance or Will, shall have sworn, or shall hereafter swear to the execution of the same in the manner hereinbefore provided, and also to the place where the same was executed; and in case of Wills, one of the witnesses thereto shall have sworn or shall

Deeds, &c., executed out of Canada West, on what evidence to be registered.

shall hereafter swear to the making and publishing of the said Will: Provided always, that on producing the Will, or the Probate thereof, together with such affidavit, the Registrar or his Deputy shall and may record the same, and the said Registrar or his Deputy shall file the said affidavit, and shall endorse a certificate on the said Deed, Conveyance, Will, or Probate thereof, which certificate shall have the same effect as if the said affidavit had been made before the said Registrar or his

Proviso.
Proviso as to cases where the registry may be prevented without the fault of the devisee.

Deputy: Provided also, that no such memorial shall be registered unless the Deed, Conveyance, Will or Probate, to which such memorial shall relate, shall be identified as that referred to in such affidavit or affirmation, by a certificate thereof under the hand of such Judge or Commissioner, or other person before whom the affidavit or affirmation was made or taken, to be endorsed on such Deed, Conveyance, Will or Probate.

Case in which the witnesses may be dead or reside permanently out of the Province provided for.

XI. And be it enacted, That when the witnesses to any Deed, Conveyance or Will, as aforesaid, shall be dead, or shall be permanently resident out of this Province, it shall and may be lawful for the Grantee or Grantees, his or their Heirs, Executors, Administrators, Guardians or Trustees, or their Assignee or Assignees, to make proof before the Justices in General Quarter Sessions assembled in any County of this Province, of the execution of such instrument, and upon a certificate, signed by the Chairman and witnessed by the Clerk of the Peace, that the majority of the Magistrates present in such Session assembled, were satisfied by the proof adduced of the due execution of the said instrument, it shall and may be lawful for the Registrar of the said County, or his Deputy, to record the said Deed, Conveyance, or other instrument as aforesaid, in manner hereinbefore mentioned, together with the said certificate and to certify the same, which certificate, from the Registrar or his Deputy, shall have the like effect as the certificate to be granted in all other cases.

Wills may be registered with effect within twelve months after the death of the Testator.

XII. And be it enacted, That all Wills, or the Probate thereof, shall be recorded as aforesaid, within the space of twelve months after the death of every respective Devisor, Testator or Testatrix, shall be as valid and effectual against subsequent purchasers, as if the same had been recorded immediately after the death of such respective Devisor, Testator or Testatrix; anything herein contained to the contrary thereof in any wise notwithstanding:

Proviso. Provided always, that in case the Devisee, or person or persons interested in the lands, tenements or hereditaments, devised in any such Will as aforesaid, by reason of the contesting such Will, or by any other inevitable difficulty, without

shing of the
on producing
affidavit, the
e, and the said
and shall en-
Will, or Pro-
effect as if
registrar or his
ch memorial
Conveyance,
orial shall re-
ed to in such
nder the hand
before whom
e endorsed on

the witnesses
as aforesaid,
y resident out
be lawful for
Heirs, Execu-
r Assignee or
neral Quarter
e, of the exe-
signed by the
ace, that the
on assembled,
cution of the
e Registrar of
Deed, Convey-
hereinbefore
o certify the
Deputy, shall
d in all other

Wills, or the
as aforesaid,
fter the death
or Testatrix,
urchasers, as
the death of
anything herein
withstanding:
visee, or per-
or heredita-
reason of the
ulty, without
his,

his, her, or their wilful neglect or default, shall be disabled from the recording the same within the respective times hereinbefore limited, then and in such case the recording the same within the space of twelve months next after his, her, or their attainment of such Will or Probate thereof, or the removal of the impedi- ment aforesaid, shall be a sufficient recording within the mean- ing of this Act; anything herein contained to the contrary here- of in anywise notwithstanding.

XIII. And be it enacted, That when and so often as any Judgment shall be entered up in any Suit or Action in any Court of Record in Upper Canada, whereby any lands, tenements or hereditaments within the same, are or may be affected, it shall and may be lawful for the Plaintiff or Plaintiffs, Defendant or Defendants in such Action, his or their Attorney, to obtain a certificate from the Clerk of the Court in which such Judgment is obtained in his or their favor, which certificate the said Clerk is hereby authorized and required to give, and to charge two shillings and sixpence, 2s. 6d. currency, for the same, in the following form:

Certificate of
Judgment binding
lands how ob-
tained.

"In the Court of (as the Form.
"case may be,) I hereby certify that Judgment was entered up
"between A. B., Plaintiff, and C. D. Defendant, on the
" day of
" for
(or damages) and
in a plea of
pounds, debt
pounds, costs.
"E. F., Clerk."

And the party obtaining such certificate, his or their Attorney, shall carry the said certificate to the Registrar or Deputy Registrar of the County or Counties wherein the lands, belonging to the party or parties against whom such judgment is entered, lie, who, upon the receipt thereof, under the signature of the Clerk and under the seal of the Court, shall record the same; and every such Judgment shall affect and bind all the lands, tenements and heredita- ments belonging to the party against whom such Judgment is rendered, from the date of the recording of the same, in the County wherein such lands, tenements or hereditaments lie, in like manner as the docketting of Judgments in England affects and binds lands: Provided always, that no unregistered Judg- ment, entered after the passing of this Act, shall take effect against a prior registered Judgment, unless the party who shall have the first registered Judgment shall neglect or delay the put- ting his execution against lands, into the hands of the proper Sheriff for one year next after the entry of such Judgment.

Such certificate
may be regis-
tered; effect of
such registration.

XIV. And be it enacted, That whenever any lands have been or shall hereafter be sold under Whenever lands
have been sold
under Deed of

Deed

Sale, the same to be in certain cases a valid conveyance in law.

Deed of bargain and sale, and such Deed hath been only registered or shall hereafter be recorded in the Registry Office of the County where such lands lie, the same shall be and is hereby declared to be as good and valid a Conveyance in law as if the same had been regularly enrolled.

(See section 6 of 13 and 14 Vict., cap. 63, on page 384, in this work.)

Hours and days at which the Registrars shall attend at their offices.

XV. And be it enacted, That every such Registrar, or his sufficient Deputy, shall give due attendance at his office every day in the year, (except Sunday, Christmas Day and Good Friday,) between the hours of ten in the forenoon and three in the afternoon, for the despatch of all business belonging to the said office; and that every such Registrar or his Deputy shall, when required, make searches concerning all memorials that have been heretofore registered, and concerning all Deeds, Wills or Judgments which may be hereafter recorded, and give certificates thereof under his hand, if required by any person.

XVI. *This section repealed by 16 Vict., cap. 187. See page 388, in this work.*

Punishment of persons forging certificates.

XVII. And be it enacted, That if any person or persons shall at any time forge or counterfeit any certificate, by this Act authorized or directed, or any affidavit of the execution of any memorial, or any such memorial, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same pains and penalties as in and by an Act of the Parliament of Great Britain, made in the fifth year of the Reign of Queen Elizabeth, intituled, *An Act against the Forgers of False Deeds and Writings*, are imposed upon persons forging or publishing Deeds, Charters or Writings, sealed Court Rolls or Wills, whereby the freehold inheritance of any person or persons in or to any lands, tenements or hereditaments, shall or may be molested, troubled or charged; and that if any person or persons shall at any time forswear himself before any Registrar or his Deputy, or before any Judge, Commissioner, or other person duly authorized to administer an oath in any of the cases aforesaid, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the oath had been taken in any Court of Record in this Province.

Or forswearing themselves.

Act not to extend to certain leases.

XVIII. And be it enacted, That this Act shall not extend to any lease for a term not exceeding twenty-one years, where the actual possession goeth along with the lease; anything in this Act contained to the contrary thereof notwithstanding.

Deed hath
e recorded
where such
be as good
been regu-

work.)

such Re-
ve due at-
the year,
(d Friday,)
the after-
aid office;
n required,
en hereto-
judgments
es thereof

page 388,

person or
erfeit any
ected, or
such me-
or persons
ties as in
ade in the
d, An Act
e imposed
Writings,
ritance of
heredita-
charged;
any time
before any
to admin-
erof law-
be liable
any Court

Act shall
xceeding
lon with
y thereof

XIX.

XIX. And be it enacted, That safe and proper fire-proof offices and vaults shall be provided within eighteen months after the passing of this Act, in each and every County in this Province, for the keeping of all books, records, and other papers belonging to the office of Registrar; and in case the Registrar of any County shall neglect to provide such office and vault within the period aforesaid, the County Council shall fix upon the most convenient and eligible site for such office within the County, and cause a proper and sufficient office to be provided at the expense of the County, not exceeding two hundred and fifty pounds, and such office shall from thenceforth be used and occupied as a Registry Office for the County in which the same may be situate; and if any Registrar shall not keep his office in the place appointed in his commission, or by proclamation, or, not having a fire-proof office and vaults, shall neglect or refuse to remove to that provided for him as aforesaid, he shall, on presentment by the Grand Jury at any Court of General Quarter Sessions, to be made on the evidence or oath of one or more competent witnesses, be liable to be removed from office at the discretion of the Governor; and it shall be the duty of every Clerk of the Peace forthwith to forward a copy of such presentment to the Governor: Provided always, that the Governor may fix the time for such removal to the office so provided. Fire-proof offices and vaults to be provided for Registry Offices.

XX. And be it enacted, That if any Registrar shall cease to reside within the limits of the County for which he is appointed, or shall become, by sickness or otherwise, wholly incapable of discharging the duties of his office, it shall be lawful for the Governor to remove him from office, on presentment by the Grand Jury as aforesaid, made on such evidence as aforesaid; and the Clerk of the Peace shall in like manner forward a copy of every such presentment. Registrar removing from the County or becoming wholly incapable, may be removed from office.

XXI. And be it enacted, That if any Registrar or his Deputy shall neglect to perform his duty as required by this Act, or commit or suffer to be committed any undue or fraudulent practice in the execution thereof, and be thereof legally convicted, then such Registrar shall forfeit his said office, and shall be liable to pay treble damages, with full costs of suit, to any person or persons that shall be injured thereby, to be recovered by action of debt, bill, plaint or information, in any of Her Majesty's Courts of Record; and any Deputy who shall remain in office during any vacancy occasioned by the death, resignation or forfeiture of the Registrar, shall be for the same cause and in like manner liable. Punishment of Registrars guilty of undue practices.

XXII. And be it enacted, That from and after the passing of this Act, the Secretary of the Pro- Deputies.
Secretary of the Province to pro-

vince

vide Register
Book for each
Township, &c.

vince shall be authorized, and is hereby required to provide a fit and proper Register Book for each Township, reputed Township, City and Town, the limits whereof are now defined by law in Upper Canada, and that all such Register Books shall continue to be hereafter of one uniform size, or nearly so, and from the time such books shall be so provided and received at the respective Registry Offices, it shall be the duty of every person who shall hold or execute the said office of Registrar, to keep and cause to be used for that purpose a separate Register Book of or for each Township, and reputed Township, and of and for every City and Town, the limits whereof shall be defined by law within the County or Riding for which they shall hold such office or appointment of Registrar; and that thereafter whenever any such Registrar shall require a new Register Book, the same shall in like manner be provided by the Secretary of the Province for the time being, and the necessary expenses incurred thereby, from time to time, shall be defrayed by the County Council of the County in which such respective Counties shall be situate.

How registered
mortgages or
judgments may
be discharged.

XXIII. And be it enacted, That when any registered Judgment or Mortgage is satisfied, it shall and may be lawful for the Registrar or his Deputy, on receiving a certificate in the form in the Schedule to this Act marked A, in respect to Mortgages, duly proved by the oath of a subscribing witness, in the same manner as hereinbefore provided for the proof of Deeds and other instruments affecting lands, from the person entitled to the amount of such Mortgage, or the Attorney of such person, and in case of Judgments on receiving a satisfaction piece under the seal of the Court in which such Judgment is entered and signed by the Clerk thereof, to write the word "discharged," and affix his name in the margin of the Register wherein the said Judgment or Mortgage is registered, which shall be deemed a discharge thereof; and such certificate or satisfaction piece shall be filed and numbered and entered on the margin of the Register under the word "discharged."

Proviso: Certificate of payment of condition of mortgage to be valid and effectual in certain cases.

XXIV. Provided always, and be it enacted, That any certificate of payment or performance of the condition of any mortgage by the Mortgagee, his Heirs, Executors, Administrators or Assigns, heretofore given and registered under the provisions of the Act herein first above cited and repealed, or which having been given under the provisions of the said Act may be registered under this Act, or which may be hereafter given and registered under the provisions of this Act, whether the same shall have been given, or shall hereafter be given, either before or after the time limited by such Mortgage for payment or performance as aforesaid, shall be and the same

quired to
for each
whereof
such Re-
size, or
vided and
the duty
c of Re-
separate
ownship,
shall be
they shall
hereafter
ter Book,
retary of
pense in-
by the
Counties

a any re-
l, it shall
Deputy,
this Act
oath of a
provided
ds, from
the At-
ceiving a
ch such
write the
the Re-
gistered,
ertificate
tered on
"

ted, That
ce of the
agee, his
ns, here-
isions of
which
Act may
eraster
whether
e given,
rage for
ne same
is

is hereby declared to be valid and effectual in law as a re-lease of such mortgage, and as a reconveyance of the original estate of the Mortgagor therein mentioned: Pro-viso. Provido.
vided also, that such certificate, if given after the expiration of the period within which the Mortgagor had a right in equity to redeem, shall not have the effect of defeating any title other than a title remaining vested in the Mortgagor, or his Heirs, Executors, Administrators or Assigns.

XXV. And be it enacted, That every such Re-
gistrar, before he enters upon the execution of the
said office, shall be sworn before any two or more of the Justices
of the Peace for the County wherein such Registrar shall reside,
who are hereby empowered and required to administer such oath,
in these words :

Registrars to take
an oath of office.

" You swear that you will well, truly and faith-
fully perform and execute the office and duty that is directed
" and required by any Act of the Legislature of this Province, in
" registering Deeds, Memorials of Deeds, Conveyances and Wills
" within the County of _____, so long as you shall
" continue in the said office, and that you have not given or pro-
" mised, directly nor indirectly, nor authorized any person to give
" any money, gratuity or reward whatsoever, for procuring or ob-
" taining the said office for you: So help you God."

The oath.

XXVI. And be it enacted, That when and so
often as the said Registrar shall appoint any De-
puty to execute the said office, such Deputy shall, before he
enters upon the execution thereof, take the said oath appointed
to be taken by the Registrar, before two or more Justices of the
Peace for the County wherein he may be, (who are hereby em-
powered and required to administer such oath;) and that every
Registrar, at the time of his being sworn into the said office, shall
also enter into a recognizance with two or more sufficient sure-
ties, to be approved of by three or more of the Justices of the
Peace of the County, by writing under their hands and seals, in
the penalty of one thousand pounds, unto Her Majesty, Her
Heirs and Successors, to be taken by the same Justices of the
Peace that approved of his security, conditioned for the true and
faithful performance of his duty in the execution of his said office,
in all things directed and required by this Act, the same to be
transmitted by the said Justice of the Peace within six months
after the date thereof, into the Court of Her Majesty's Bench in
Upper Canada, there to remain amongst the Records of the said
Court.

Deputies to be
sworn.

XXVII. And be it enacted, That the Registrar
or his Deputy shall not be compelled to register
any Deed, Conveyance, Will, or other Instrument,

No Deed, &c.,
need be registered
until the fees
thereon be paid.

unless

unless the fees authorized by this Act shall be previously paid thereon.

Provision in case of death, &c., of Registrar.

XXVIII. Provided nevertheless, and be it enacted, That when any Registrar shall die or surrender his office, and that, within the space of one year from and after such death or surrender, no misbehaviour appears to have been committed by such Registrar in the execution of his office, then and in such case, at the end of the said one year after such death or surrender, the recognizance entered into by him shall become void and of no effect to all intents and purposes whatever.

Seal of a Corporation to be sufficient evidence to justify the registration of their Deed.

XXIX. And be it enacted, That the Seal of any Corporation affixed to any Deed, Conveyance, Memorial or Instrument in writing, shall of itself be sufficient evidence of the due execution of such Deed, Conveyance, Memorial or Instrument in writing, by such Corporation, for all purposes respecting the registering thereof, and no further evidence or verification of such execution shall be required for the purpose of registry; any law or custom now in force to the contrary notwithstanding.

Governor may remove the Registry office in a County to the Chief Town.

XXX. And be it enacted, That whenever it shall appear to the satisfaction of the Governor of this Province, that the Registrar's Office in any County is situated inconveniently for the public, it shall be lawful for him, by proclamation, to order the said office to be removed to such other place in the County as he shall deem expedient.

Preamble.

XXXI. And whereas it is desirable that Registrars should be enabled to afford purchasers and other persons making searches, information respecting the original Grantee of each lot piece, parcel or tract of land within their respective County or Counties, together with the local situation of the same;

Surveyor General to furnish Registrars with certain information,

Be it therefore enacted, That it shall be the duty of the Officer or person performing the duties formerly assigned to the Surveyor General of the Province, to furnish each Registrar with a list of the names of all Persons in whose favor Patents may have heretofore issued from the Crown for grants of land within their respective County or Counties, or which may from time to time hereafter issue, and also with copies of all plans or maps of Towns and Townships within the same, within twelve calendar months after any Registrar shall in writing make application to the said Officer or person performing such duties as aforesaid for the same.

Also certain Maps.

Duty of Registrar when portion of a County is set

XXXII. And be it enacted, That where any portion of a County is separated or set apart so as

viously paid

and be it en-
die or sur-
space of one
misbehaviour
n the execu-
of the said
nce entered
intents and

Seal of any
Conveyance,
shall of itself
tion of such
ing, by such
ring thereof,
ution shall
custom now

Whenever it
Governor of
office in any
the public, it
e said office
as he shall

that Regis-
her persons
Grantee of
respective
of the same;
be the duty
e duties for-
eral of the
e names of
efore issued
tive County
r issue, and
Towns and
elve calen-
application
s aforesaid

where any
apart so as

to form another County, or a part thereof, it shall be the duty of the Registrar of the first mentioned County to furnish a statement of the registration of such titles as may have been registered, of lands lying in the part so separated, to the Registrars of the new County and of the County of which it shall form a part, setting forth the dates of the Deeds and the particulars of the lots or parcels of lands to which they respectively relate or refer.

apart so as to
form another
County.

XXXIII. And be it enacted, That any person, Corporation or Company of persons, who have heretofore or shall hereafter survey and subdivide any land into Town or Village lots, differing from the manner in which such lands were described as granted by the Crown, it shall and may be lawful for such person, Corporation or Company, to lodge with the Registrar of the County a plan or map of such Town or Village lots, showing the numbers and ranges of such lots, and the names, sites and boundaries of the streets or lanes by which such lots may be in whole or in part bounded, together with a declaration to be signed by such person, or by the lawful Officer, Agent or Attorney of such Corporation or Company, that the said plan contains a true description of the lots and streets laid out and appropriated by such person, Corporation or Company, and thenceforth it shall be lawful for the Registrar to keep an Index of the land described on such map or plan as a Town or Village, or part of a Town or Village, by the name by which such person, Corporation or Company shall designate the same.

When a Com-
pany, &c., shall
subdivide any
land into town
lots a plan or map
of such land may
be lodged in Re-
gistry Office.

XXXIV. And be it enacted, That for and notwithstanding anything in this Act contained, it shall not be necessary to appoint a Registrar for each of the following Counties, namely: Lennox, Addington, Prescott, Russell, Lincoln, and Welland: but for the purposes of registration of titles under this Act, it shall and may be lawful to appoint one Registrar for the Counties of Lennox and Addington, one for the Counties of Prescott and Russell, and one for the Counties of Lincoln and Welland: Provided always, that in the event of a vacancy in the office of Registrar of either of the said united Counties, it may be lawful for the Governor General in his discretion to divide the said Counties in which any such vacancy may happen, and to appoint a Registrar for each County respectively.

Certain Counties
may be united for
the purpose of re-
gistration.

Provido.

XXXV. And be it enacted, That the words "Upper Canada," throughout this Act, shall be always construed to extend to and mean that portion of this Province which formerly constituted the Province of Upper Canada; and that this Act shall not apply to that portion of this Province formerly constituting the Province of Lower Canada

Interpretation
clause.

in any way whatsoever, and the words "Governor of the Province," shall include the Lieutenant Governor or person administering the Government of this Province.

This Act amended by 13 and 14 Vict. cap. 63. See following Act.

SCHEDULE A

ABOVE REFERRED TO.

To the Registrar of the County.

I, A. B., of do certify that C. D., of
hath satisfied all money due upon a
certain mortgage made by the said C. D. to me, bearing date the
day of
one thousand eight hundred and and
registered at of the clock in the forenoon of the
day of
following, and that such mortgage is therefore discharged.

As witness my hand, this day of
18

(Signed)

A. B.

E. F., of
G. H., of

} Witnesses.

REGISTRY LAW, AMENDED, (C. W.)

CAP. LXIII.

AN ACT TO AMEND THE REGISTRY LAW OF CANADA WEST.

[Assented to, 10th August, 1850.]

Preamble.

9 Vict. c. 34, cited.

WHEREAS by an Act passed in the ninth year of Her Majesty's Reign, intituled, *An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada*, provision was made for the registration of judgments entered up in any suit or action, in any Court of Record in Upper Canada, and it was therein enacted, That every such judgment shall affect and bind all the lands, tenements and hereditaments belonging to the party against whom such judgment is rendered, from the date of the recording of the same in the County wherein such lands, tenements or hereditaments lie, in like manner as the docketting of judgments in England affects and binds lands: And whereas at the time of the passing of the

aforesaid

of the Pro-
person ad-

t.

at C. D., of
due upon a
ring date the

and
noon of the

arged.
day of

A. B.

W.)

WEST.

ust, 1850.]

in the ninth
gn, intituled,
the Registry
merly Upper
f judgments
f Record in
every such
ements and
a such judg-
the same in
itaments lie,
land affects
assing of the
aforesaid

aforesaid Act, the practice of docketting judgments had been discontinued in England, and whereas doubts have in consequence been entertained as to the effect of the aforesaid provision: Be it therefore enacted, &c., That any judgment hereafter duly certified and registered as in the said Act provided, shall affect and bind the lands, tenements and hereditaments therein specified, in like manner as a judgment of any of Her Majesty's Superior Courts at Westminster when duly docketted would have bound lands before the practice of docketting judgments had been discontinued in England: Provided that nothing in this section contained shall be construed as declaratory of the meaning of the said Act; and provided also, that whenever any judgment shall have been registered before the passing of this Act, the party in whose favor the same shall have been rendered, may require the Registrar of any County to mark on the margin of such registry, and sign the same, registered this day of A. D. eighteen and such entry of registry shall have the same effect from such date as if it had been registered under this section.

Meaning of the
above Act de-
clared.

Proviso.

Proviso.

How registered
judgments shall
affect lands, &c.

II. And be it enacted, That a judgment to be entered up against any person in any Court of Record in Upper Canada, after the First day of January, one thousand eight hundred and fifty-one, shall operate as a charge, so soon as a certificate of such judgment shall have been duly registered, upon all lands, tenements and hereditaments situate within the County where such certificate shall have been registered as aforesaid, of or to which such person shall at the time of registering such judgment, or at any time afterwards, be seized, possessed or entitled, for any estate or interest whatever at Law or in Equity, whether in possession, reversion, remainder or expectancy, or over which such person shall at the time of registering such judgment, or at any time afterwards have any disposing power, which he might without the assent of any other person exercise for his own benefit, and shall be binding against the person against whom judgment shall be so entered up and registered, and against all persons claiming under him after such judgment and registry, and shall also be binding as against the issue of his body, and all other persons whom he might without the assent of any other person cut off and debar from any remainder, reversion or any other interest, in or out of the said lands, tenements or hereditaments; and that every judgment-creditor shall have such and the same remedies in a Court of Equity against the hereditaments so charged by virtue of this Act or any part thereof, as he would be entitled to in case the person against whom such judgment

Remedies of
judgment-
creditor.

judgment shall have been so entered up and registered had power to charge the same hereditaments and had by writing under his hand agreed to charge the same with the amount of such judgment-debt and interest; and all such judgments shall be claimed and taken to be valid and effectual according to the priority of registering such certificates: Provided nevertheless, that nothing herein contained shall be deemed or taken to alter or affect any doctrine of Courts of Equity whereby protection is given to purchasers for valuable consideration without notice.

Proviso as to notice.

All deeds, devises, &c., executed after 1st January, 1851, must be registered.

III. And be it enacted, That after any Grant from the Crown of any lands in Upper Canada, and Deed Patent thereof issued, every deed, devise, or other conveyance which shall be executed at any time after the First day of January, one thousand eight hundred and fifty-one, whereby any lands, tenements or hereditaments in Upper Canada may be in anywise affected in Law or Equity, shall be adjudged fraudulent and void, not only against any subsequent purchaser or mortgagee for valuable consideration, but also against a subsequent judgment-creditor, who shall have registered a certificate of his judgment, unless such memorial be registered as by the said first recited act is specified before the registering of the memorial of the deed, devise or conveyance, or the certificate of the judgment, under which such subsequent purchaser, mortgagee or judgment-creditor respectively shall claim, subject nevertheless, as to devisees, to the provisions contained in the twelfth section thereof: Provided always, that nothing herein contained shall be construed to affect the rights of equitable mortgagees as now recognized in the Court of Chancery in this Province.

Proviso.

Deeds, &c., to take priority according to the date of registry.

And if not registered.

Who may receive affidavits under the said Act in Canada East.

IV. And whereas the doctrine of tacking has been found to be productive of injustice, and requires correction: Be it enacted, That every deed and conveyance executed after the First day of January, one thousand eight hundred and fifty-one, a memorial whereof shall be duly registered, and every judgment recovered after the date last aforesaid, a certificate whereof shall be duly registered, shall be deemed and taken as good and effectual both in Law and in Equity according to the priority of the time of registering such memorial or certificate; and when no memorial of such deed or conveyance shall have been duly registered, then such deeds or conveyances shall be deemed and taken to be valid and effectual, both at Law and in Equity, according to the priority of time of execution.

V. And be it enacted, That it shall be lawful for the Chief Justices and Judges of the Court of Queen's Bench and of the Superior Court in

Lower

istered had
by writing
amount of
ments shall
rding to the
: Provided
ained shall
of Courts of
or valuable

any Grant
er Canada,
deed, devise,
euted at any
ght hundred
litaments in
y or Equity,
t any subse-
eration, but
shall have
h memorial
ified before
or convey-
h such sub-
respectively
e provisions
f: Provided
ed shall be
ges as now
e.

tacking has
justice, and
That every
of January,
rial whereof
red after the
ly registered,
both in Law
of registering
en no memo-
ll have been
ll be deemed
nd in Equity,

ll be lawful
the Court of
or Court in
Lower

Lower Canada, and for the Circuit Judges in that section of the Province, and for the Commissioners appointed by the Superior Courts of Record in Upper Canada, for taking affidavits in Lower Canada, and they are hereby severally required to administer the affidavit or declaration in writing mentioned and referred to in the tenth section of the said first recited Act, of the due execution of any deed, conveyance or will, or of any certificate of payment of mortgage money, executed, published or made in Lower Canada.

VI. And whereas by the fourteenth section of the said Act it is enacted, That whenever any lands have been or shall be sold under Deed of Bargain and Sale, and such Deed hath been only registered or shall hereafter be recorded in the Registry Office of the County where such lands lie, the same shall be, and is hereby declared to be, as good and valid a conveyance in Law as if the same had been regularly enrolled; and whereas the effect of such clause may be to render doubtful the meaning of the forty-seventh section of the Act of the Parliament of the late Province of Upper Canada, passed in the Fourth year of the Reign of His late Majesty King William the Fourth, chaptered one, and intituled, *An Act to amend the Law respecting Real Property, and to render the proceedings for recovering possession thereof in certain cases less difficult and expensive*, by which it is enacted, that a Deed of Bargain and Sale of Land shall not be held to require enrolment, or to require registration to supply the place of enrolment for the mere purpose of rendering such Bargain and Sale valid and effectual conveyance for passing the land thereby intended to be bargained and sold: Be it therefore enacted, that the said fourteenth section of the said first mentioned Act shall be and the same is hereby repealed.

Sec. 14 of 9 Vict. c. 34, recited.

The said section repealed.

VII. And be it enacted, That the registry, or registry of any certificate of judgment as herein-before mentioned, shall be deemed and taken to be a registry of such judgment for the purposes of this Act.

Certificate of judgment may be registered.

VIII. And be it enacted, That the registry of any deed, conveyance, will or judgment under the first recited Act, or this Act, affecting any lands or tenements, shall in Equity constitute notice of such deed, conveyance, will or judgment, to all persons claiming any interest in such lands or tenements subsequent to such registry.

Registry to be deemed notice.

IX. And be it enacted, That the Registrar of every County in Upper Canada, shall, after the passing of this Act, enter in a separate Book to be kept for that purpose, the certificates of all judgments brought to him for registration, and prepare an Alphabetical Index thereto.

Separate book for registry of judgments.

REGISTRY LAWS AMENDMENT, (C. W.)

CAP. CLXXXVII.

AN ACT TO AMEND THE REGISTRY LAWS OF CANADA WEST.

[Assented to, 14th June, 1853.]

Preamble.

WHEREAS the recent changes in the Territorial Divisions of U. C. have rendered it necessary to make certain changes in the Registry Laws of that section of the Province: Be it therefore enacted, &c., That in every case where any City, Town, Township, reputed Township or place, theretofore making part of any County in Upper Canada, in and for which a separate Registry Office is or shall be kept, has been or shall be detached from such County and attached to or become part of another County in and for which a separate Registry Office is or shall be kept, the Registry Book or Books kept for such

When any place is detached from a County for Registration purposes, the Books, &c., relating to such place shall be delivered to the Registrar of the County to which it is attached.

City, Town, Township, reputed Township or place under the provisions of the twenty-second section of the Act passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada*, and all plans or maps of Town or Village Lots in such City, Town, Township, reputed Township or place, lodged in the Office of such Registrar, pursuant to the thirty-third section of the said Act, shall be delivered by the Registrar of the County from which such City, Town, Township, reputed Township or place is or shall be detached, to the Registrar of the County to which the same is or shall be attached, or of which it shall become part, to be kept by him among the Registry Books of his office, and dealt with in all respects by him and his successors in office in like manner as the

Provide: a statement to be delivered of titles registered before separate Books were kept for each place.

Registry Books originally made and kept therein: Provided always, that a statement of such titles of or relating to lands lying in such City, Town, Township, reputed Township or place, as may have been registered before separate Registry Books were kept for each Township or place, under the authority of the said Act, shall be furnished by the Registrar of the County from which such Township or place shall have been detached, to the Registrar of the County to which the same shall have been attached, or of which it shall become part, in the man-

n the Terri-
rendered it
laws of that
cc., That in
ownship, re-
making part
d for which
oe kept, has
County and
r County in
ce is or shall
kept for such
nder the pro-
cessed in the
nd intituled,
of that part
and all plans
n, Township,
ch Registrar,
shall be deli-
City, Town,
detached, to
r shall be at-
kept by him
ith in all res-
anner as the
kept therein:
f such titles
City, Town,
nce, as may
ate Registry
er the autho-
gistrar of the
ave been de-
e same shall
t, in the man-
ner

ner provided by the thirty-second section of the Act last above cited; and the provisions of this section shall apply to each and every City, Town, Township, reputed Township or place in any new County, and in any County which being therefore united with another County or Counties for the purposes of registration of titles, shall be detached therefrom for such purposes, and become entitled to have a separate Registry Office.

This section to apply to places in new Counties, &c.

II. And be it enacted, That the statement to be furnished by the Registrar of a County to the Registrar of any new County under the thirty-second section of the said in part recited Act, shall be accompanied by an index thereto, which shall be considered as a part of the said statement, and such Registrar shall carefully compare such statement with the original entries in the Register Books in his office, and endorse a Certificate to that effect on such statement when furnishing the same to the Registrar of such new County: And such statement shall, in addition to the particulars required by the said thirty-second section, contain the names of the parties to such Deeds and of the witnesses thereto, and shall also contain the same particulars with regard to Wills and other registered documents affecting lands in such new County as are required concerning Deeds, and shall also furnish a statement of any Wills registered in any General Registry Book of Wills, whether such Book was procured before or since the passing of the said Act.

Statements under s. 32, of U. V. c. 34, to be accompanied with an Index and Certificate.

It shall contain certain further particulars.

III. And be it enacted, That no Registry Book shall after the passing of this Act be furnished by the Secretary of the Province to any Registrar in Upper Canada under the twenty-second section of the Act hereinbefore recited, but whenever any Registrar shall require a new Registry Book, the same shall be furnished to him by the Treasurer of the County on his application therefor, and shall be paid for by such Treasurer out of the County Funds, and the Certificate now given by the Provincial Secretary in and with regard to any such Registry Book, or one to a similar effect, shall be given by the Judge of the County Court having jurisdiction in such County, on the application of the Registrar, and such Certificate shall be in the form or to the effect in the Schedule to this Act annexed: and if such Treasurer shall refuse or neglect to furnish such Book within thirty days after the application of the Registrar, the Registrar may provide the same, and recover the cost thereof from the Municipality of the County: And such Registry Books shall be as nearly as may be of the like size and description as those heretofore furnished to Registrars in Upper Canada by the Provincial Secretary under the said twenty-second section of the said Act.

Register Books not to be furnished hereafter by the Province, but by the County.

Size and form to be as at present.

Each County returning a Member to have a Registry Office, &c.

IV. And be it enacted, That each County in Upper Canada, now entitled to return a Member or Members of the Legislative Assembly to represent such County in the Provincial Parliament, shall be also entitled to have a separate Registry Office for the registration of titles, and Registrars shall be appointed accordingly, but until the establishment of such separate Registry Offices as may be established under this Act, all Deeds, Wills, Memorials or other Instruments may be registered in the same Offices, and with the same effect, as if this Act had not been passed.

When a Deed relates to lands in several localities in the same County, only one Memorial need be filed.

V. And be it enacted, That when any Deed, Will or other Instrument, shall embrace different lots or parcels of land situate in different localities in the same County, it shall only be necessary to furnish one Memorial of such Deed, Will or other Instrument, and such Memorial shall be copied into the Registry Book for the City, Town, Township or place in which the different parcels or lots of land are situate, in the same manner and to the same extent only as if a separate Memorial had been furnished in relation to the lands situate within such City, Town, Township or place respectively, and the Registrar shall make the

Proviso. necessary Entries and Certificates accordingly: Provided always, that only one Certificate of Registry shall be allowed or charged for, and that in counting folios to be charged for, the marginal certificates, notes or references shall not be included.

Sect. 9 of 9 V. c. 34, repealed: on what proof Memorials shall be received of Deeds executed in C. W. but out of the County in which the lands to which they relate are situate.

VI. And be it enacted, That the ninth Section of the said in part recited Act shall be and is hereby repealed; and instead thereof, Be it enacted, That a Memorial of any such Deeds, Conveyances, Wills or Probate thereof, as shall be made and executed or published in any place within Upper Canada, other than the County in which the lands mentioned therein lie, shall be entered and registered by the Registrar or his deputy as aforesaid, provided an affidavit, sworn before one of the Judges of the Superior Courts of Common Law or of Equity in Upper Canada, or a Judge of any County Court within his County, or a Commissioner duly authorized to take affidavits in the Court of Queen's Bench or the Court of Common Pleas in Upper Canada, be brought to the said Registrar or his Deputy, wherein one of the witnesses to the execution of such Deed or Conveyance shall swear to the execution of the same as also of the Memorial thereof, and to the place where the same were executed, and in case of Wills, one of the witnesses to the Memorial of such Will or Probate thereof, shall swear to the execution of such Memorial; and the same shall be a

sufficient authority to the said Registrar or his Deputy, to give the party that brings such Deed, Conveyance, Will, or Probate thereof and affidavit, a Certificate of the registering of the same, which Certificate, signed by the said Registrar or his Deputy, shall be taken and allowed as evidence of the registry of the same, in all Courts of Record in Upper Canada, anything in the said in part recited Act to the contrary thereof in anywise notwithstanding.

VII. And be it enacted, That whenever, after the passing of this Act, a Deed or Conveyance shall be executed under and by virtue of a Letter or Power of Attorney from the Grantor or Grantors, a Memorial of such Letter or Power of Attorney may be registered, in the same manner and upon the same evidence as a Memorial of a Deed or Conveyance is now legally registered, and the Registrar shall be allowed the same fees for recording the same, as for a Deed or Conveyance under this Act.

Memorials of Letters of Attorney may be registered, and how.

VIII. And be it enacted, That every Registrar in Upper Canada shall be allowed the following fees, and no more, that is to say:

Fees to Registrars in C. W.

For drawing Affidavit of Execution of Instrument and Memorial brought to be registered, if done by the Registrar or his Deputy, including swearing and all Certificates thereof, Two Shillings and Six Pence;

Affidavits of execution.

For recording every Deed, Conveyance, Will, Power of Attorney or Agreement, including all necessary Entries and Certificates, Six Shillings and Three Pence, but in case such Entries and Certificates exceed eight hundred words, at the rate of Eight Pence for every additional hundred words;

Recording Deeds, &c.

For registering Certificate of Judgment, Two Shillings and Six Pence, satisfaction thereof, Two Shillings and Six Pence;

Certificates of Judgment.

For entering Certificate of Payment of Mortgage Money, including all Entries and Certificates thereof, Two Shillings and Six Pence;

Certificates of payment of Mortgage Money.

Drawing Affidavit of the Execution thereof, including the swearing of the witness, when done by the Registrar or his Deputy, Two Shillings and Six Pence;

Affidavit of execution.

For searching Records relating to the title of any lot or parcel of land not exceeding four references, One Shilling and Threepence, and One Shilling and Three Pence for every additional four distinct references, and so in proportion for every number of searches made; Provided always, that in no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of Ten Shillings;

Searches.

Proviso.

Extracts.

For every extract furnished by the Registrar, including Certificate, One Shilling and Three Pence, and where the same exceeds one hundred words, Nine Pence for every additional one hundred words contained in such Extract and Certificate.

Registrars to keep Books of Receipts of Fees, &c., and make Returns thereof.

IX. And be it enacted, That every Registrar of a County in Upper Canada, shall keep a Book in which shall be entered all the Fees and Emoluments received by him, by virtue of his office as such Registrar, shewing separately the sums received for registering Memorials, Certificates and other Documents, and for searches, and he shall make a Return of such Fees and Emoluments in detail to the Legislature, annually.

Section 16 of 9 Vict., c. 34, repealed.

X. And be it enacted, That the sixteenth Section of the said in part recited Act shall be, and the same is hereby repealed.

Word "County" interpreted.

XI. And be it enacted, That the word "County" in the foregoing provisions of this Act, shall mean any County or union of Counties for which a separate Registry Office is or shall be required by law to be kept.

Commencement of this Act.

XII. And be it enacted, That the Eighth, Ninth and Tenth Sections of this Act shall take effect upon, from and after the first day of January, one thousand eight hundred and fifty-four only.

Holidays at Registry offices.

XIII. And be it enacted, That the following holidays shall be allowed in the several Registry Offices in Upper Canada, namely, Christmas, New Year's Day, Good Friday, Ash Wednesday, Easter Monday, and Queen's Birth Day.

SCHEDULE.

Form of Certificate referred to in the third Section of this Act.

This Register contains _____ pages, and is to be used in and for the (City, Town or Township of, as the case may be) in the County of _____ for the Enregistration of Memorials, under the provisions of the Act of the Legislature of the Province of Canada, passed in the ninth year of Her Majesty's Reign, and intituled, *An Act to consolidate and amend the Registry Laws of that part of this Province which was formerly Upper Canada*, and of the Act of the said Legislature amending the same, and is provided in pursuance of the requirements of the said Statutes.

Dated this _____ day of _____ in the year of our Lord, one thousand eight hundred and fifty-

A. B.,

Judge of the County Court of

REAL

REAL ESTATE OF MINORS, (C. E.)

CAP. CCIIL.

AN ACT TO REGULATE THE PROCEEDINGS IN CASES OF VOLUNTARY LICITATION.

[Assented to, 14th June, 1853.]

WHEREAS the formalities required in cases of voluntary licitations cause inconvenience, delay and expense to parties interested: Preamble. Be it therefore enacted, &c., That whenever it shall be intended to sell or otherwise alienate the real estate of minors or any other person whose real estate can only be sold or otherwise alienated according to the formalities by law required for the sale or other alienation of the real estate of minors, the Notary, before calling a meeting of the relations and friends for that purpose, in conformity with the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, chapter fifty-eight, shall cause two *experts* to be appointed, who shall not be related to any of the parties or to their legal representatives, or interested in the matter in question, (mention whereof shall be made in the Deed of *Expertise*,) one of which *experts* shall be appointed by the tutor, and the other by the *subrogé* tutor of the minors, (or in the case of the real estate of any other person subject to the same formalities Mode of appointment. as provided by law for the real estate of minors, one *expert* shall be appointed by the curator to such person, and the other by one of the relations nearest of kin to, or appearing to be most interested in such person,) of which appointment an *Acte* shall be drawn up before Notaries in the form of Schedule A; to which *experts* any Notary shall, by this Act, How to be sworn. be authorized to administer the oath according to law, which oath shall be taken (in the form of Schedule B) by the said *experts*, before entering upon their duties; it shall Their duty. then be the duty of the said *experts* to proceed to ascertain the value of the real estate in question, and if the sale thereof shall be required on account of indivisibility, they shall also proceed to ascertain whether it cannot be conveniently Report. divided, and shall make their report thereon by *Acte* before Notaries, delivered *en Brevet*, in the form of Meeting of relations and friends. Schedule C; it shall thereupon be lawful for any

Notary to summon before him the relations and friends who are to compose the said meeting; he shall administer the usual oath to the persons present at such meeting, and shall read to them the contents of the *Acte* of declaration of the persons requiring such meeting, and the contents of the *Acte* of *Expertise* aforesaid, and shall take their advice, and prepare an *Acte* in the form of Schedule D, mentioning therein the names and the age of the minors, the degrees of relationship, the quality and residences of the persons composing such meeting, and giving therein a description of the real estate.

Proceedings to be transmitted to Judges for homologation: with Petition.

II. The Petitioner shall transmit to the Judges of the Superior Court, or the Judges of the Circuit Court, all the originals of the proceedings above mentioned and submit them with a Petition (which every Notary is hereby authorized to certify in the usual manner) setting forth succinctly the object and purpose of the said proceedings without any special designation whatever, in order that the same may be homologated, if they ought so to be, which Petition shall be in form of Schedule E: if the Judge to whom such proceedings shall be submitted, homologates the *avis de parents*, he shall place his *Acte* of homologation and ordinance in the form heretofore made use of in like cases, at the foot of the *Acte* containing the *avis de parents*, and the whole shall be deposited with the other proceedings in the Archives of the office of the Court, in order that copies thereof may be given to the parties entitled thereto; and if the Judge to whom the proceedings in question are referred shall think proper to refuse to homologate them, he shall state his reasons for so doing at the foot of the Petition, and shall affix his signature thereto.

If the Judge homologates.

And if he refuses so to do.

To apply to C. E. only.

III. This Act shall apply to Lower Canada only.

SCHEDULE A.

On the _____ day of _____ in the year one thousand eight hundred and _____, at _____ o'clock in the _____ noon, before the undersigned Public Notaries for Lower Canada, residing in the District of _____ came and appeared A, residing _____ of the one part, and B, residing _____ of the other part, who have appointed, that is to say, the said A the person of _____ and the said B that of _____ as *Experts* for the purpose of _____ proceeding

friends who
the usual
meeting, and
the *Acte* of
and the con-
take their
D, mention-
degrees of
composing
of the real

the Judges
the Circuit
ings above
a Petition
in the usual
pose of the
hatever, in
ht so to be,
chedule E:
gs shall be
parents, he
in the form
e *Acte* con-
e deposited
office of the
the parties
whom the
shall think
his reasons
x his signa-

ver Canada

usand eight
noon,
er Canada,
appeared A,
y, the said
the said B
e purpose of
proceeding

proceeding to the inspection of the real estate belonging to
described in the declaration made by the said
by *Acte* before *Mtre.*, Notary,
(or one of the undersigned Notaries,) to ascertain the value
thereof, (and if the sale is demanded on account of indivisibility)
and whether or not it can conveniently be divided.

SCHEDULE B.

I, _____ and I, _____, do make oath and swear
that I will faithfully proceed to the performance of what is re-
quired of me by the *Acte* of my appointment, executed before
Mtre., Notary, and his Colleague, on the
and that I will make a true report of my opinion on the whole
matter, without favor or partiality for any of the parties in-
terested in the matter in question. So help me God.
Sworn before us the undersigned Notaries.

SCHEDULE C.

On the _____ day of _____ in the year one thousand
eight hundred and _____ at _____ o'clock in the
noon, before me the undersigned Public Notary for
Lower Canada, residing in the District of _____
came and appeared _____ the *experts* appointed by the
Acte above executed by the undersigned Notaries, on
who declare that having previously made oath as appears by
the Certificate hereunto annexed, they proceeded on the
day of _____ to the inspection of the real estate,
appurtenances and dependencies mentioned and described in
the declaration of _____ received by *Mtre.*
Notary, the _____, and after due examination and
obtaining every information necessary for the purposes men-
tined in their said *Acte* of appointment, they value and estimate
the said real estate, _____ (if there be several immo-
vables, they should be valued separately) and further, (if the sale
is made on account of indivisibility) they declare that it cannot
conveniently be divided.

The said *experts* further declare that they are not related to
the parties interested in the matter in question, nor to their legal
representatives.

Acte whereof is delivered *en Brevet* at

SCHEDULE D.

On the _____ day of _____ in the year one thousand eight hundred and _____ at _____ o'clock in the noon, before me, the undersigned Notary Public for Lower Canada, residing in the District of _____, came and appeared _____, who affirms that in conformity with the declaration made by *Acte* before *Mre.* _____, Notary, bearing date the _____, for the purpose of obtaining authority to sell, for the reasons therein set forth, the real estate belonging to _____, therein designated and described as follows, to wit: (*here describe the real estate*) he did for the said purpose cause to be summoned before us, to wit:

_____ in default of relations, requiring us, they being present, to receive their advice as to the contents of the *Acte* of declaration aforesaid, and the parties above named having appeared, we have caused to be read the said *Acte* of declaration, the report of the *experts* made before *Mre.* _____, Notary, and his colleague, and have taken and received from them the necessary oath, and such oath having been made, they have all unanimously declared that they are of opinion that

(*Should there be a division of opinion, mention the same, and give the reasons therefor.*)

SCHEDULE E.

PROVINCE OF LOWER CANADA, }
DISTRICT OF _____ }

To the Honorable the Judges of the Superior Court (*or the Judge of the Circuit Court,*) &c., &c., &c.

A. (*addition and place of residence*) humbly represents, that he has caused the relations and friends to be consulted by *Mre.* _____, Notary, at _____ on the _____ day of _____, and has caused to be fulfilled all the proceedings by law required to be had in order to _____ and submitted for your approval. And he therefore prays that your honors will take these proceedings into consideration and homologate them, if they ought to be homologated, and you will do justice.

At _____ the _____ one thousand eight hundred _____

e thousand
e
for Lower
d appeared
the decla-
ry, bearing
g authority
e belonging
scribed as
for the said

vice as to
the parties
e read the
ade before
have taken
such oath
d that they

same, and

urt (or the

esents, that
nsulted by

illed all the

ys that your
and homo-
on will do

undred

REAL

REAL PROPERTY ILLEGAL DETENTION ACT, (C. E.)

CAP. XCII.

AN ACT TO PROVIDE A MORE SUMMARY AND LESS EXPENSIVE PROCESS FOR PROPRIETORS OF REAL PROPERTY IN CANADA EAST TO ACQUIRE THE POSSESSION THEREOF, WHEN ILLEGALLY DETAINED FROM THEM, IN CERTAIN CASES.

[Assented to, 30th August, 1851.]

WHEREAS great inconvenience and expense are often occasioned to proprietors of lands situated in that part of this Province called Lower Canada, by persons acquiring the possession thereof without any title thereto, and against the will of such proprietors; for remedy thereof: Be it enacted, &c., That any proprietor or proprietors of any lands or tenements, or both, held in free and common soccage in the townships, which are situated within that portion of the Province of Canada called Lower Canada, the possession of which lands or tenements or both shall have been illegally acquired and is detained from such proprietor or proprietors as aforesaid against his or their will, by any person or persons whomsoever, it shall be lawful for any such proprietor or proprietors as aforesaid, by a Summons issued from the office of the Clerk of the Circuit Court in any Circuit within the District where such lands or tenements are situated, to summon such occupier or occupiers, or person or persons so acquiring and detaining such illegal possession as aforesaid, before the Circuit Court in such Circuit as aforesaid, or before any Circuit Judge in vacation, or any Judge of the Superior Court in vacation, and that such Circuit Court, Circuit Judge in vacation, or Judge of the Superior Court in vacation, shall in due course hear, determine and adjudge the matter in issue and award the costs: Provided always, that when such defendant or defendants shall plead and produce an adverse title to such lands or tenements, or both, so claimed as aforesaid, then after evidence shall have been adduced and the *enquête* closed on the part of the plaintiff and defendant, it shall be lawful for either of the contesting parties, after having previously given security for costs, as well in the Court below as in the Superior Court, to inscribe such

Preamble.

Party holding a valid title to lands detained from him, may obtain a Summons from the Circuit Court to the party detaining them.

Who may hear the case.

If adverse title be pleaded and security given, the case may be evoked to the Superior Court.

cause for final hearing and argument for the Superior Court, at the next ensuing sitting thereof within the District where such suit is commenced; and upon such security for costs having been entered up, and such inscription of the cause having been made as aforesaid, the Clerk of the Circuit Court where such action is commenced shall forthwith send up the record, and all proceedings and evidence taken and had in such cause duly certified to the said Superior Court, and thereupon the said Superior Court shall hear the arguments in such cause, determine the matter in issue and award costs, in the same manner in all respects as if the said suit or action had been originally instituted in the said Superior Court; Provided also, that

But not unless such security be given. unless security for costs as aforesaid shall have been entered up in such suit or action in the Circuit Court where such suit is commenced, within three days after the *enquête* shall have been closed by both contesting parties to such suit, it shall be lawful for either of the contesting parties to such suit to inscribe such cause for final hearing and argument before such Circuit Court, Circuit Judge in vacation, or Judge of the Superior Court in vacation, as the case may be, and thereupon the said Circuit Court, Circuit Judge in vacation, or Judge of the Superior Court in vacation, may and shall proceed to hear, determine and adjudge upon the matter in issue in such cause, and award costs as he might do if no such adverse title were pleaded or produced.

Documents filed in such suits to be records of Circuit Court.

II. And be it enacted, That all suits or actions instituted under this Act shall be instituted in the same manner, and be subject to the same regulations and delays between the service of process therein and the rules of pleading, as are adopted and required by law and the rules of practice in the Circuit Court as well when such suits or actions shall be instituted before a Circuit Judge in vacation or a Judge of the Superior Court in vacation, as when they shall be instituted before the Circuit Court, unless and until such suits or actions shall be removed by appeal or otherwise to the Superior Court as by this Act provided, and all documents filed and proceedings had in any suit under this Act shall be and become records of the Circuit Court where the Summons may have issued in such suit, as well if such proceedings were had before a Circuit Judge in vacation, or a Judge of the Superior Court in vacation, as if the whole of such proceedings were had before such Circuit Court; and such documents and proceedings shall be and remain records of such Circuit Court, unless the same shall be removed as hereinbefore provided, to the Superior

Judgments executory.

Court; and the judgments and orders of such Circuit Judge in vacation, or Judge of the Superior Court in vacation, as well as of the Circuit Court, in any such suit,

Court, at
ere such
s having
ving been
ere such
d, and all
ause duly
the said
etermine
ner in all
instituted
also, that
all have
e Circuit
after the
s to such
es to such
ent before
ge of the
hereupon
Judge of
to hear,
ch cause,
itle were

r actions
ed in the
e regula-
a and the
y and the
n suits or
cation or
hey shall
uch suits
Superior
and pro-
become
ay have
ad before
Court in
ad before
ngs shall
the same
Superior
h Circuit
or Court
uch suit,
shall

shall be executory in every respect as fully by such Circuit Court as the judgments and orders in any other suit in the Circuit Court at such place; and that the evidence in all such suits shall be reduced to writing and filed of record, in the same manner as in other appealable cases before the Circuit Court.

III. And be it enacted, That whenever the plaintiff shall be entitled to a judgment under this Act, by the Circuit Court or by a single Judge in vacation, it shall be lawful for the Circuit Court, Circuit Judge in vacation, or Judge of the Superior Court in vacation, as the case may be, to render judgment, and order the same to be entered of record by the Clerk of the Circuit Court at the place where the Writ of Summons in such cause issued, and by such judgment to declare the plaintiff the lawful proprietor of the real property in contestation, or any portion thereof, and to order and adjudge the defendant to abandon and deliver up the same to the plaintiff within twenty days after a copy of such judgment shall have been served upon him; and in default of the defendant's abandoning and delivering up the same within the said twenty days after such service upon him, a Writ of Possession may issue from the Circuit Court at the place where the record in such suit is, directed to the Sheriff of the District within which the real property adjudged is situated, to cause the plaintiff to have the possession thereof.

How judgments
shall be executed

Writ of posses-
sion.

IV. And be it enacted, That whenever a judgment shall have been rendered under this Act, by the Circuit Court, a Circuit Judge in vacation, or a Judge of the Superior Court in vacation, an appeal shall lie to the Superior Court sitting within the District where such suit shall have been originally instituted, which said Superior Court shall proceed to hear and adjudge on such appeal as to law may appertain, and in the manner hereinafter provided.

Appeal given to
the Superior
Court.

V. And be it enacted, That the party appealing from any judgment rendered as aforesaid by the Circuit Court, or by a Circuit Judge in vacation, or by a Judge of the Superior Court in vacation, shall, within fifteen days after the rendering of the judgment to be appealed from (but without being bound to give notice thereof to the adverse party) give good and sufficient security by sureties who shall justify their sufficiency to the satisfaction of the person before whom it shall be given as hereinafter provided, that he will effectually prosecute the appeal, and (if the plaintiff be the party appealing) that he will pay the costs as well in the Court below as in the Superior Court if the judgment appealed from be affirmed; and (if the defendant be the party appealing) that he will pay the costs as well in the Court below as in the Superior Court.

Delay allowed for
appealing: Se-
curity to be given.

Superior Court, and that he will deliver up the real property adjudged to the plaintiff without waste, if the judgment appealed from should be affirmed; and such security shall be given either before any Judge of the Superior Court or the Prothonotary thereof, and the Bond shall be deposited and remain of record in the office of the latter; or it shall be given before any Circuit Judge, or before the Clerk of the Circuit Court where such judgment may have been rendered, and the Bond shall there be deposited and remain of record in the office of the latter; and any two sureties, each of whom shall be a proprietor of real property of the value of Fifty Pounds current money of this Province above all incumbrances payable out of or affecting the same, shall suffice to render such security valid: and the said Judges, Prothonotaries or Clerks are hereby authorized to administer all oaths required by law in such cases from the persons so becoming sureties, and to put to them all necessary inquiries and questions.

How such appeals may be prosecuted.

VI. And for the purpose of obviating delay and expense in the prosecution of appeals under this Act, Be it enacted, That such appeals shall be prosecuted and proceedings thereon had in a summary manner, by petition of the appellant to the Superior Court, setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as the Court below ought to have rendered, a copy of which petition, with a notice of the time at which it is to be presented to the Superior Court, shall be served upon the adverse party, or at his domicile, or on his attorney *ad litem*, within fifteen days from the rendering of the judgment appealed from; and such petition shall be presented at some weekly sitting or term (whichever shall first happen) of the Superior Court next succeeding the rendering of the judgment appealed from, if there shall be an interval of twenty days between the rendering of such judgment and such sitting or term, and if there shall not be such interval, then on the first juridical day of the sitting or term next succeeding the expiration of twenty days next after the rendering of such judgment: Provided always,

Providso.

that neither the day of the rendering of such judgment appealed from nor the day of the presenting of said petition to the Superior Court shall be considered as forming part of the said interval of twenty days; and provided also that a true copy of the appeal Bond given by the party appealing, certified as such by the Prothonotary or Clerk in whose office it shall have been deposited, shall be annexed to the original petition presented to the Superior Court, and that a copy or copies of the same, certified as such by the party appealing

Providso.

IX. from a tuted manne appeal
X. A under Judge shall be Court, exceeds neverth appeal costs sh before t Act sha of the r

al property
at appealed
curity shall
e Superior
d the Bond
fice of the
e, or before
may have
and remain
eties, each
e value of
all incum-
ll suffice to
aid Judges,
thorized by
s from the
necessary

g delay and
under this
als shall be
ry manner,
etting forth
reversal of
h judgment
y of which
e presented
se party, or
fteen days
; and such
ng or term
rt next suc-
om, if there
rendering of
shall not be
e sitting or
s next after
ed always,
f such judg-
said petition
part of the
rovided also
iven by the
ry or Clerk
annexed to
, and that a
e party ap-
ppealing

14 & 15 Viet. **ILLEGAL DETENTION ACT, (C. P.)** Cap. 92, 1851.

pealing or his attorney, shall be served with the petition and notice hereinbefore mentioned upon the party respondent.

VII. And be it enacted, That the Circuit Court, Circuit Judge in vacation and Judge of the Superior Court in vacation, shall have jurisdiction in the manner hereinbefore stated and to the extent hereinbefore given, in all suits provided for by this Act, as well where the value of the real property claimed is above as when it is under Fifty Pounds current money of this Province.

Value of the property not to affect jurisdiction

VIII. And be it enacted, That the security for costs required to be given by the first section of this Act, previously to inscribing a suit for the Superior Court as therein provided in certain cases, may be given by the party inscribing (without giving notice to the opposite party) within three days after the *enquête* is closed by the contesting parties, by good and sufficient sureties, who shall justify their sufficiency either before the Clerk of the Circuit Court where the suit is of record, or before the Judge before whom the *enquête* in such suit is had, and the Bond shall be deposited and remain of record in the office of the Clerk of the said Circuit Court; and any two sureties, each of whom shall be a proprietor of real property of the value of Fifty Pounds current money of this Province above all incumbrances payable out of or affecting the same, shall suffice to render such security valid: and the said Judge or Clerk is hereby authorized to administer all oaths required by law in such cases from the persons so becoming sureties, and to put to them all necessary inquiries and questions.

How security under Section 1 may be given.

Qualification of sureties.

IX. And be it enacted, That an appeal shall lie from all judgments rendered in the Superior Court in cases instituted under this Act to the Court of Queen's Bench in the same manner, and subject to the same rules and restrictions as other appeals from the said Superior Court.

Right of Appeal.

X. And be it enacted, That the costs in any suit under this Act before the Circuit Court, Circuit Judge in vacation, or a Judge of the Superior Court in vacation, shall be the same as are now allowed in actions in the Circuit Court, when the sum of money or the value of the thing demanded exceeds the sum of Twenty-five Pounds currency: Provided, nevertheless, that if such suit be removed by appeal or otherwise to the Superior Court, the costs shall be the same as in other petitory actions before the said Court; and provided further, that nothing in this Act shall be construed to deprive any proprietor or proprietors of the right they now possess of instituting any petitory action before

What costs shall be allowed.

Proviso: If the case be removed into Superior Court.

before the Superior Court, but that it shall be at their option to proceed under this Act, or to institute a petitory action in the Superior Court in the same manner as if this Act had not been passed.

Act not to affect claim for improvements.

XI. And be it enacted, That nothing in this Act contained shall have the effect of depriving any person or persons of any claim they would by law have previous to this Act coming into effect, for betterments or improvements made by them upon any real property of which they may be in occupation, nor have the effect of interfering in any way with any suit or action pending or being prosecuted in any Court in Lower Canada, for the possession of any such lands and tenements, which suit or action shall be continued as if this Act had not been passed.

Extent of Act.

XII. And be it enacted, That this Act shall apply to lands held in free and common socage, in the Townships situated in Lower Canada only, and shall continue in force for two years, and from thence, until the end of the then next Session of the Parliament of this Province, and no longer.

REAL PROPERTY DETENTION ACT, AMENDED, (C. E.)

CAP. C C V.

AN ACT TO AMEND THE ACT FOURTEENTH AND FIFTEENTH VICTORIA, CHAPTER NINETY-TWO, RELATING TO THE ILLEGAL DETENTION OF REAL PROPERTY IN CANADA EAST.

[Assented to, 14th June, 1853.]

Preamble.

14 & 15 V. c. 92.

WHEREAS it is necessary and expedient to amend an Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to provide a more summary and less expensive process for Proprietors of Real Property in Lower Canada to acquire the possession thereof when illegally detained from them in certain cases*, and to make other and further provisions of law touching the same: Be it therefore enacted, &c., That in any action instituted under the provisions of the Act herein first above cited, before any Circuit Court, Circuit Judge in Vacation, or Judge of the Superior Court in Vacation, it shall and may be lawful for the Defendant or

Defendant in any case under the said Act may before defence, evoke such case to the Superior Court.

ir option to
ction in the
ad not been

r in this Act
riving any
ve previous
provements
may be in
y way with
ny Court in
ls and tene-
his Act had

is Act shall
the Town
nue in force
e then next
onger.

CT,

CTORIA, CHAP.
OF REAL PRO-

une, 1853.]

expedient to
the Session
years of Her
to provide a
ctors of Real
thereof when
make other
e it therefore
stituted under
above cited,
dge in Vaca-
in Vacation,
Defendant or
Defendants

Defendants in any such suit or action, at his or their option and choice, before making defence to such suit or action, to evoke the said suit or action to the Superior Court at its next ensuing Sitting within the District where such suit or action is commenced; and immediately upon the filing of such evocation, by any Defendant or Defendants, and upon security being given as hereinafter provided, the record and proceedings shall forthwith be transmitted to the said Superior Court holden within the District where such suit or action has been so commenced, to be by the said Superior Court heard, tried and determined according to the course and practice of the said Superior Court.

Transmission of
Record, &c.

II. And be it enacted, That in any such case of evocation of any suit or action, the Defendant or Defendants filing such evocation shall be held, within eight days from the filing thereof, to give good and sufficient security for the costs to be incurred by the Plaintiff or Plaintiffs in conducting such suit or action to final Judgment; and a recognizance duly entered into by two securities, each of whom shall be a proprietor of real property of the value of Twenty-five Pounds currency, above all incumbrances, shall be sufficient; and such security may be taken by any Judge of the Superior Court or Prothonotary of the said Court, or before any Circuit Judge or the Clerk of the Circuit Court, and the said Judges, Prothonotaries or Clerks are hereby empowered to administer all necessary oaths to persons becoming such sureties, and it shall not be necessary to give notice to the party Plaintiff, of the putting in of such security; Provided, however, that if the security required by this Section be not furnished within the delay prescribed, the right of evocation before trial and *enquête* shall be forfeited.

Security to be
given for costs.

What shall be
sufficient se-
curity.

How it shall be
given.

Proviso.

III. And be it enacted, That in any action to be instituted under the provisions of the Act herein first above cited, it shall and may be lawful for the party Plaintiff in such suit or action, to demand such sum or sums of money as he or they may be entitled to by law, for rents, issues and profits, *fruits et revenus*, as well as for damages for the illegal detention of such property; and any Circuit Court, Circuit Judge in Vacation or Judge of the Superior Court in Vacation, shall and may have, hold and exercise jurisdiction over the said demand for rents, issues and profits, *fruits et revenus*, whatever be the sum demanded.

Plaintiff may at
the same time
demand issues
and profits, and
damages.

Jurisdiction
given.

IV. And be it enacted, That in any suit or action instituted under the provisions of the Act

Defendant may
demand the sums

herein

due to him for improvements.

herein first above cited, before any Circuit Court, Circuit Judge in Vacation, or Judge in the Superior Court in Vacation, it shall and may be lawful for any Defendant or Defendants in any such suit or action, in addition to any other defence which he, she or they may have to such suit or action, to plead and demand, by incidental cross-demand, any and all such sum or sums of money as he, she or they may be entitled by law to have and demand for improvements, buildings and ameliorations made upon the Real Property sought to be recovered in and by such suit or action; and any such Circuit Court, Circuit Judge in Vacation, or Judge of the Superior Court in Vacation, shall have, hold and exercise jurisdiction over any such incidental cross-demand for ameliorations, buildings and improvements, whatever may be the amount claimed thereby.

Defendant may appeal to Superior Court notwithstanding anything in s. 5 of the said Act giving security.

V. And be it enacted, That notwithstanding any thing contained in the fifth Section of the Act herein first above cited, it shall and may be lawful for any Defendant or Defendants to appeal from any Judgment rendered by any Circuit Court, Circuit Judge in Vacation, or Judge of the Superior Court in Vacation, under the said Act or this Act, to the Superior Court sitting in the District where such suit or action shall have been originally instituted, upon giving good and sufficient security as prescribed in the said Section, effectually to prosecute the appeal and pay all costs as well in the Court below as in the said Superior Court, if the Judgement appealed from should be affirmed.

Provision as to actions already commenced, but in which issue has not been joined.

VI. And be it enacted, That in actions instituted under the above cited Act prior to the passing of this Act, and in which issue has not been joined prior to the passing of this Act, it shall be lawful for the Plaintiff, within two months after the passing of this Act, to take other special conclusions in and by his declaration for *fruits et revenus* and for damages for the illegal detention of the property sought to be recovered, and in such cases the Plaintiff shall be bound to serve such special conclusions upon the Defendant or his attorney, and the Defendant shall have the same delay to plead to the action after the filing of such special conclusions as he is now entitled to have after the return of any action instituted under the said Act when no such special conclusions are filed, and such Defendant may plead any matter of defence or incidental demand which he might have pleaded if such action had been instituted in the Superior Court.

RIGHTS OF LESSORS AND LESSEES ACT, (C. E.)

C A P. C C.

AN ACT TO AMEND THE ACT TO REGULATE THE EXERCISE OF CERTAIN
RIGHTS OF LESSORS AND LESSEES IN CANADA EAST.

[Assented to, 14th June, 1853.]

WHEREAS the Act of the Legislature of Lower Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to regulate the exercise of certain rights of Lessors and Lessees*, has been found to work badly, and it is necessary to amend it: Be it therefore enacted, &c., That in all the cases mentioned in the Act first above cited, whether the lease or agreement of lease be verbal, written or authentic, the cause and all proceedings therein, and matters relative thereto, whatever be the amount of the claim, or of the lease, or agreement of lease, or of the value of the thing in contestation, shall be heard, tried and determined before any Judge of the Superior Court or Circuit Judge, and in any case in term or in vacation: Provided always, that in all cases in which an action shall be brought for use and occupation, a lease shall be considered as existing between the proprietor and the occupant, but it shall not be necessary to produce or prove the same, and such lease shall be considered as expiring on the first day of May following, unless it be proved that an agreement to the contrary has been made between the parties.

Preamble.

C. E. s. W. 4. c. 1.

By what Judges cases under the said Act shall be heard.

Proviso.

Presumptive lease in certain cases.

Mode of proceeding.

Proceedings to be summary: No exception allowed.

II. And be it enacted, That the proceedings in all such cases shall be commenced by Summons with declaration annexed, in the usual form, and according to the practice of the Court, which shall be directed to a Bailiff of such Court for service thereof; and the service shall in all cases be one clear day before the return where the defendant shall reside within five leagues from the place of return, with an additional day for each additional five leagues of distance from the said place of return.

III. And be it enacted, That the said proceedings shall be summary, and no exception, whether formal or otherwise, shall be allowed to prevail against any such proceedings, if the same be amended forthwith

with by the Plaintiff, but any defect, error or omission therein may be amended at any stage thereof, according to the facts of the case, with costs or without costs, at the discretion of the Judge.

When proceedings may be commenced.

If possession refused.

Delay between service and appearance, &c.

If default be made.

Plaintiff may proceed for rent and possession.

Effects seized not to be left in charge of defendant without security.

Plaintiff may demand the rescission of the lease, &c., in certain cases.

IV. And be it enacted, That the proprietor or lessor may proceed under the said Act and this Act, at any time after the end of three days from the expiration of the lease, or agreement of lease, to recover possession of the immoveable leased and detained after that time, and in the event of the lessee refusing to give up the leased premises at the expiration of the said three days, the proprietor or lessor may commence proceedings on the next day after the expiration of the said three days.

V. And be it enacted, That the defendant shall appear and plead on the day following the return, before noon, on which day, or the next day following, the plaintiff shall answer such plea, and the *enquête* shall thereupon be ordered *ipso facto* without delay; and if the defendant fail to appear and plead within the time aforesaid, default shall be recorded against him, and thereupon judgment shall be immediately entered against him if the service has been personal, and after proof if the service has not been personal.

VI. And be it enacted, That the Plaintiff may, in and by the same proceedings, and at the same time, sue for and recover possession of the immoveable leased, and of any arrears of rent due, and may seize the goods of the lessee by *saisie-gagerie*, *saisie-arrêt simple* before judgment, or *saisie entierecement*, according to law, without in either case being deprived of his privilege as such proprietor or lessor, and on due proof thereof, the judgment shall be entered for the possession of such arrears.

VII. And be it enacted, That whenever a Writ of *saisie-gagerie* shall issue to seize the effects of a tenant, the same shall not be left in his guardianship without the consent of the plaintiff, or unless he shall offer sureties, to be approved by the Sheriff or Bailiff, as the case may be, for the production of the said effects, who shall be liable to the same penalties and obligations therefor, as guardians now are under ordinary Writs of Execution.

VIII. And be it enacted, That whenever any plaintiff shall, under the said Act or this Act, sue for the recovery of any rent or any quarter's rent, or rent for any period due to him, he may at the same time and by the same proceedings, pray that the lease may be rescinded if such rent be not paid within the time to be appointed for that purpose

on therein
the facts of
the Judge.

proprietor or
t and this
days from
cover pos-
that time,
to give up
of the said
proceedings
days.

ndant shall
the return,
day follow-
quête shall
the defend-
time afore-
t him, and
ainst him if
service has

intiff may,
t the same
ne immove-
y seize the
ple before
without in
roprietor or
be entered

ver a Writ
effects of a
s guardian-
ff, or unless
f or Bailiff,
effects, who
therefor, as
n.

enever any
his Act, sue
arter's rent,
ne time and
e rescinded
ted for that
purpose

purpose in the judgment, or by the sale of the goods pledged for the rent, and thereupon the Judge shall order the same in and by the said judgment; and if it appear by the return of the Sheriff or Bailiff to the Writ of Execution to be issued on such judgment, that the sale of the effects seized has not produced enough to pay the rent due and costs, a Writ of Possession shall issue, addressed to the Sheriff or Bailiff, to dispossess the defendant and all others in the said premises, and to remove their effects and put the plaintiff in possession: Provided always, that the return to the Writ of Execution shall be made on the day next after the sale, if the place of sale be not more than five leagues from the place where the judgment shall be rendered, and one additional day shall be allowed for every additional five leagues.

Writ of Possession.

Proviso.

IX. And be it enacted, That the *droit de suite* shall and may be exercised by Writ of *saisie-arrêt simple* or *saisie-arrêt en mains tierces* before judgment according to law, against the effects of any tenant for the entire amount due and to become due in virtue of any lease in writing or verbal agreement for lease, which said amount shall on due proof be adjudged to the proprietor or lessor, and together with the costs of judgment and execution aforesaid, shall be levied by Writ of Execution, upon and from the sale of the said effects, if the same shall suffice therefor.

How the *droit de suite* may be enforced.

X. And be it enacted, That the Sheriff or Bailiff executing any Writ of Possession, under the said Act and this Act, shall have full power to use force, if necessary, to execute the same.

Sheriff or Bailiff may use force.

XI. Provided always, and be it enacted, That in any case where the proprietor or lessor shall have obtained a judgment of possession for any unexpired portion of any lease in writing or verbal agreement, or shall have proceeded by *droit de suite* as aforesaid, the Writ of Execution shall direct the said unexpired portion of the said lease to be first realized and sold before the sale of the said effects shall be made, and the said effects shall in that case be sold only to the extent of and for an amount sufficient to cover the entire amount of the judgment with costs as aforesaid, and in all cases the amount levied under Writ of any Court shall be returned into and deposited in the office of the Prothonotary of such Court, as the case may be, for distribution thereof according to law and the practice of such Court, but such distribution shall not be ordered except as the terms mentioned in the lease shall expire and as rent shall become due.

Unexpired portion of a lease to be the first thing sold in execution under the said Act.

Amount levied to be returned into Court for distribution.

Appeal given: in what cases and on what conditions.

XII. And be it enacted, That an appeal shall lie from any judgment rendered as aforesaid, when the amount thereof shall be sufficient, or the object in contestation shall give a right of appeal according to law, in the same manner and on the same conditions as in other cases, but in addition to the usual security, the appeal bond shall be conditioned for the payment of all damages arising from the non-execution of the judgment, in consequence of such appeal; and

What security the appellant must give.

no sureties shall be received unless they shall give in writing, signed by them, a description of real property to them belonging, the value whereof shall be equal to the amount for which security is to be given, over and above all hypothecs, charges or incumbrances, payable out of or affecting the same, nor unless they shall (if required by the opposite party), justify their sufficiency on oath, and produce the titles to such real property as aforesaid.

Proceedings upon oppositions to executions under this Act.

XIII. And be it enacted, That in any case in which an opposition shall be filed to the execution of any judgment rendered under this Act, and the Act amended thereby, the trial, hearing and determining of the said opposition shall be proceeded with as in original actions, adopting, as respects the proceedings but not as respects the delay, the ordinary mode of procedure on similar oppositions.

Saisies-Arrêts may issue on judgments.

XIV. And be it enacted, That *saisies-arrêts* in the hands of third parties may be issued under the said judgments rendered or to be rendered, in the same manner as in ordinary causes, and the same proceedings shall be had on such *saisies-arrêts* as in ordinary cases.

Act to apply to occupants by forbearance or gratuitously.

XV. And be it enacted, That in any case in which a person shall occupy a property without a lease or agreement, but with the forbearance or gratuitous permission of the proprietor thereof, and such person shall refuse to quit the said property, summary proceedings may be had against such person in the same manner as if he were occupying the said property under a lease.

To what cases this Act shall apply.

XVI. And be it enacted, That nothing in this Act shall apply to or affect any proceeding commenced before the passing thereof; save and except as regards oppositions and *saisies-arrêts*, and the provisions hereof shall apply to rural as well as urban property.

Interpretation.

XVII. And be it enacted, That the Interpretation Act shall apply to the said first cited Act, and to this Act.

Inconsistent Acts repealed.

XVIII. And be it enacted, That all laws and parts of laws which shall be inconsistent with this Act shall be and are hereby repealed.

THE LAW *ÆDE* REPEAL ACT.

CAP. CCIV.

AN ACT TO REPEAL THE LAW *ÆDE*.

[Assented to, 14th June, 1853.]

WHEREAS the Law *Æde*, as adopted from the Roman Law into the Law of Lower Canada, whereby the landlord or proprietor may go into possession of the house leased and evict his tenant therefrom before the expiration of the term of lease, for the purpose of occupying himself the premises, is not consistent with justice or expediency, and ought to be repealed : Be it therefore enacted, &c., That so far as respects the right mentioned in the preamble, the said Law *Æde* be and the same is hereby repealed : and that henceforward it shall not be competent to any landlord or proprietor, upon any lease hereafter to be made, to evict his tenant under or by any such Law for the cause aforesaid, unless the said right has been expressly reserved by the lease, and in that case at least one month's previous notice shall be given, unless it be otherwise stipulated in the said lease.

Preamble.

The Law *Æde* repealed to a certain extent.

REGISTRATION OF TITLES TO REAL PROPERTY, (C. E.)

C A P. X X V I I.

AN ACT TO AMEND THE ACT AND ORDINANCE THEREIN MENTIONED, RELATIVE TO THE REGISTRATION OF TITLES TO AND INCUMBRANCES UPON REAL PROPERTY IN CANADA EAST.

[Assented to, 29th March, 1845.]

Preamble.

WHEREAS it is expedient to make the exercise or disposal of certain rights less difficult and expensive, and further to facilitate the Registration of certain Titles relative to Immoveable Property in Lower Canada, by amending and repealing certain parts of the Ordinance of the Governor and Special Council for the affairs of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to*

Ordinance 4,
Vic. cap. 30.

prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, Real or Immoveable Estates, and of charges or incumbrances upon the same; and for the alteration and improvement of the Law, in certain particulars, in relation to the alienation and hypothecation of Real Estates, and the rights and interests acquired therein; and of the Act of Parliament of this Province, passed in the seventh year of Her Ma-

Act 7 Vic.
cap. 23.

jesty's Reign, and intituled, An Act to amend the Ordinance providing for the Registration of Titles to Real Property or Incumbrances thereon in Lower Canada and further to extend the time allowed by the said Ordinance for the Registration of certain Claims: Be it therefore enacted, &c.,

At whose instance memorials may be registered.

That whenever registration shall be made by Memorial in the manner prescribed by the said Ordinance, such Memorial may be executed by and registered at the instance of any party having

an interest, direct or indirect, in the registration, or by and at the instance of the debtor or party charged with the incumbrance to

By whom they may be attested.

be registered; that the Memorial may be attested before any Notary, or any Commissioner appointed to receive affidavits to be used in the Court of Queen's Bench, or any Justice of the Peace, and such Notary, Commissioner, or Justice of the Peace, shall and they are hereby authorized to administer the oath or oaths prescribed by the said Ordinance, and such oath or oaths shall have the same force and effect as if

PRO-

ONED, RE-
CES UPON

1845.]

make the
rights less
registration
power Ca-
rdinance
of the late
r of Her
inance to
Titles to
Estates,
the alter-
ers, in re-
s, and the
of Par-
Her Ma-
mend the
of Titles
nada and
ance for
cted, &c.,
made by
the said
uted by
y having
nd at the
rance to
e attested
ppointed
s Bench,
sioner, or
orized to
rdinance,
fect as if
it

it or they had been administered by a Judge of the Court of Queen's Bench or of any Circuit Court in Lower Canada; that the registration by such Memorial shall avail to all parties interested in the Deed or Instrument to which the Memorial shall relate; and that any such Memorial may, without further proof, be presented to the Registrar or his Deputy for registration by any person whomsoever, and registered, on his producing the Documents on which it shall be founded; and the Memorial shall remain of record in the hands of the Registrar, who shall thereupon mark upon the said Documents,—“Registered by Memorial, (*mentioning the year, month, day and hour of registration, and the books in which the entries are made,*”) and shall certify the same by his signature; and for such certificate the Registrar shall be entitled to the sum of one shilling and six pence, currency.

Registration of
any deed shall
avail to all parties.

Memorial may be
registered with-
out further proof.

Indorsement on
the Deed, &c.

II. And be it enacted, That any Memorial executed in any part of this Province, may, upon the observance of the formalities aforesaid, and without any other formality whatever, be validly registered at the instance of any person whomsoever.

Memorials ex-
ecuted in this
Province may
be registered
without further
formality.

III. And be it enacted, That the words “legal and customary dower,” in the thirty-fifth section, or in any other part of the said Ordinance, shall be deemed to include not only legal and customary dower, but also stipulated (*préfixe*) or conventional dower; and that such interpretation shall apply to all transactions or acts entered into or done by any married woman since the said Ordinance came into effect, and they shall avail as if the said section had clearly included and been intended to apply to stipulated (*préfixe*) or conventional dower, as well as to legal and customary dower.

Words “legal
and customary
dower,” how
to be under-
stood in the
said Ordinance.

IV. And be it enacted, That it shall be lawful for any married woman, of the full age of twenty-one years, to release her dower and right to dower, whether customary or conventional, (*préfixe*) on real or immoveable property whatever, by an instrument (*Acte*) separate from and posterior to that by which such property may have been sold, conveyed, exchanged, given, or otherwise alienated either by her husband alone or by her husband and herself jointly, and whether such instrument shall be or have been executed before or after the passing of this Act, or before or after the day on which the said Ordinance came into force, and the release of dower to be so made shall have the same effect with regard to such married woman, her children, heirs, or legal representatives, or other persons whatsoever, and with regard to conventional

Married wo-
men may re-
lease their
dower.

conventional as well as customary dower, as the release of dower made under the thirty-fifth section of the said Ordinance would have under the said section, or the thirty-seventh section, or any other part of the said Ordinance, or of this Act, with regard to the same parties and to the legal or customary dower.

Mode of facilitating the registration of titles filed on or before 1st November last.

V. And be it enacted, That every Registrar shall provide himself with a sufficient number of books, and shall employ a sufficient number of writers for the purpose of entering and transcribing therein all Deeds, Instruments and Documents, which shall have been entered in his office for registration on or before the first day of November last, following the orders of the numbers of the entries, so as to form regular volumes, in the order of the dates and numbers of such entries, and which books shall be

They shall be registered within six months.

Facility afforded for procuring certificates of registration.

authenticated by the proper officer,—all which shall be done by each Registrar, so as to complete the registration of the said Documents within six months from the passing of this Act; and in order to facilitate the procuring of certificates of the registration of any Deed or Document, it shall be sufficient that in any such certificate granted within six months from the passing of this Act, and relating to any Deed or Instrument registered on or before the first day of November last, mention be made of the day and hour of the entry for registration, and the number of the entry, without mentioning the book or page, and such certificate shall be taken and allowed as evidence of registry as if granted in the form prescribed by the said Ordinance.

Entries made as aforesaid to be valid.

Proviso: Act not to affect Deeds registered after 1st Nov. last.

VI. And be it enacted, That all entries made as aforesaid shall be as valid, and shall have the same effect in law, as if they had been made in books previously authenticated as required by the said Ordinance: Provided always, that nothing contained in the next preceding Section shall be construed to affect in any manner the mode of registering any Deed, Instrument, or Document which shall have been presented for registration after the said first day of November last, save and except that any certificate of the entry for Registration of any such Deed, Instrument or Document granted before the passing of this Act, or within six months thereafter, mentioning the day and hour of such entry, and the number thereof, without mentioning the book or page, shall be taken and allowed as evidence of the registry as if granted in the form prescribed by the said Ordinance.

Prior registration by others not to affect persons in

VII. And be it enacted, That the registration of any title to or instrument creating any charge, incumbrance

27, 1845.

of dower
ce would
n, or any
regard to

Registrar
umber of
umber of
transcrip-
nch shall
before the
numbers
er of the
shall be
all which
complete
within six
facilitate
tration of
cient that
x months
or Instru-
last, men-
gistration,
book or
evidence
said Ordi-

ies made
have the
made in
aid Ordin-
ntained in
strued to
ering any
presented
last, save
gistration
ed before
hereafter,
e number
taken and
form pre-

stration of
charge, in-
umbrance

14 & 15 Vict. REGISTRATION OF DEEDS, (C. E.) Cap. 93, 1851.

cumbrance, or servitude upon any immoveable property, posterior to the title of any party who shall be in open and public possession of such property as proprietor, shall not affect the title or rights of such party, although the title of such party be not registered until after the registration of such posterior title or instrument.

open possession
of any property.

VIII. And be it enacted, That this Act shall continue and be in force for and during the space of two years and to the end of the then next ensuing Session of the Provincial Parliament, and no longer.

Duration of Act.

This Act continued by 16 Vict., cap. 151, sec. 1, 1853.

TO EXPLAIN AND AMEND REGISTRATION OF DEEDS ACT, (C. E.)

CAP. XCIII.

AN ACT TO EXPLAIN AND AMEND THE LAWS RELATING TO THE REGISTRATION OF DEEDS IN CANADA EAST.

[Assented to, 30th August, 1851.]

WHEREAS in and by an Ordinance of the Legislature of the Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to prescribe and regulate the Registering of Titles to lands, tenements and hereditaments, real or immoveable estates, and of charges and incumbrances on the same, and for the alteration and improvement of the Law in certain particulars in relation to the alienation and hypothecation of real estates, and the rights and interests acquired therein*, it was amongst other things in effect ordained and enacted, that the Registrars of Deeds for the several Deeds in the Ordinance mentioned, should severally and respectively, before taking upon themselves the duties of their offices, enter into Recognizances in the several and respective penal sums therein mentioned, conditioned for the due and faithful performance of the said duties: And whereas, in and by an Act of the Parliament of this Province, passed in the seventh year of Her Majesty's Reign, intituled, *An Act to amend the Ordinance providing for the Registration of Titles to Real Property, or incumbrances thereon in Lower Canada, and further to extend the time allowed by the said Ordinance for the Registration of certain claims*, so much of the said

Preamble.

Ordinance as provided for the establishment of a Registry Office and the appointment of a Registrar in and for each of the Districts therein mentioned, was repealed, and it was amongst other things in effect enacted, that a Registry Office should be established and a Registrar should be appointed in and of each and every County in Lower Canada; And whereas by various subsequent Acts, several of the said Counties have been divided into Districts or Divisions for the purposes of the said Ordinance and Act, and of other Acts relating to the Registration of Deeds and other documents affecting real property in Lower Canada; And whereas doubts have arisen as to whether the Registrars of and for Counties or portions of Counties as aforesaid are bound to enter into such recognizances as aforesaid: And whereas, also, the several penal sums in the said Ordinance mentioned are disproportioned to the extent and population of the Counties severally and respectively substituted to the Districts in the said Ordinance mentioned, and still more so to the extent and population of the Registration Districts and Registration Divisions into which some of the said Counties have been divided as aforesaid; And whereas it is expedient to explain and amend the said Ordinance and Acts in this and other respects: Be it therefore declared and

Provisions of Ord.
of C. E., 4 Vict. c.
30 s. 8, applicable
to Registrars of
Counties, &c.

enacted, &c., That all and every of the provisions of the said Ordinance, on the subject of the recognizances to be entered into by Registrars for Districts to be appointed under the said Ordinance, have been and are applicable to and binding upon the Registrars of Counties and the Registrars of and for Registration Districts and Registration Divisions, appointed under all or any of the Acts cited or referred to in the Preamble to this Act.

Amount of security
to be given in
future.

II. And be it enacted, That it shall be the duty of every Registrar of Deeds in Lower Canada, immediately after the passing of this Act, if he have not already done so, and also for every such Registrar of Deeds hereafter appointed, before taking upon himself the execution of his office, to comply with the requirements of the eighth section of the said

Ordinance in this behalf: Provided always, that it shall not be necessary that the penal sum in any recognizance to be entered into by any such Registrar shall exceed Four Thousand Pounds, if he be or be appointed Registrar of either of the Counties of Quebec or Montreal, or Two Thousand Pounds if he be or be appointed Registrar of any other County, or One Thousand Pounds if he be or be appointed Registrar of any Registration District or Registration Division, being less than a County, in Lower Canada; nor shall any Registrar or his sureties be liable henceforth, under any recognizance heretofore entered into and now in force, for any greater amount than the penal sum which would require to be inserted in a recognizance entered into

y Office
the Dis-
st other
e estab-
ach and
ous sub-
ed into
nce and
eds and
a; And
of and
ound to
as, also,
are dis-
s sever-
said Or-
ulation
o which
d; And
dinance
red and
visions
e recog-
for Dis-
inance,
gistrars
Districts
of the

he duty
ada, im-
already
ereafter
s office,
he said
that it
nizance
d Four
ither of
ounds if
e Thou-
gistra-
County,
ties be
ed into
al sum
red into
by

by such Registrar after the passing of this Act; but the penal sum in any such recognizance heretofore entered into and now in force as aforesaid, is hereby reduced to the amount hereby fixed and prescribed for each case respectively.

III. And be it enacted, That it shall be the duty of each and every Registrar of Deeds in Lower Canada to reside within five leagues of the place in which his office is situate.

Registrars to re-
side near their
offices.

IV. And be it enacted, That any and every donation or deed of gift, *inter vivos*, of goods and chattels, liable to registration or insinuation, or of lands and tenements, or real or immoveable property in Lower Canada, made either before or after the passing of the said Ordinance, shall be held and deemed to be and to have been well and sufficiently registered or *insinué*, provided the same have been or shall hereafter be registered either by memorial or at full length in the Registry Office in, and of, and for the District, or County, or Registration District, or Registration Division, as the case may be, in which the lands and tenements, real and immoveable estates thereby given or affected were or may be situate; and if no lands or tenements, real or immoveable estates be thereby given or affected, then in the Registry Office in, of, and for the District or County, or Registration District, or Registration Division, as the case may be, in which the donor is described in such donation or deed of gift, *inter vivos*, as being resident at the time of the execution thereof; or if the lands and tenements, real and immoveable estates thereby given or affected, were or shall be situate in two or more Districts or Counties, Registration Districts or Registration Divisions, then in the Registry Office in, of, and for each of such Districts, or Counties, or Registration Districts, or Registration Divisions: Provided always, that in this latter case the registration of any such donation or deed of gift, *inter vivos*, in the Registry Office or Registry Offices in, of, and for any one or more of such Districts or Counties, or Registration Districts or Registration Divisions, shall be held and deemed to be and to have been good and valid and effectual so far as respects any lands and tenements, real and immoveable estates thereby given or affected, which may have been or may be situate in such District or County, or Registration District or Registration Division, although the same may be null and void for want of registration as to lands and tenements, real and immoveable estates situate in another District or County, or Registration District or Registration Division, or in other Districts or Counties, or Registration Districts or Registration Divisions, as the case may be; but no such donation or deed of gift *inter vivos*, so heretofore or hereafter registered

Mode of registra-
tion deemed suffi-
cient in certain
cases.

Proviso: Regis-
tration to be valid
as to lands, &c.
within limits,
although it be
null as to lands
without.

gistered as aforesaid, shall be held or deemed to be null and void for want of having been also registered at the place or places, and in the manner required by the laws in force in Lower Canada at the time of the passing of the said Ordinance; any law, usage or custom to the contrary notwithstanding: Provided always, that nothing in this Act contained shall operate to the prejudice of rights acquired by these parties by the laws in force at the time of the passing of this Act, in respect of lands and tenements, or real estate given by each and every donation or deed of gift *inter vivos*, as above mentioned.

This Act how to apply. V. Provided always, and be it enacted, That the provisions of this Act shall not apply to the Registrar of the County of Megantic, Division No. 2.

REGISTRATION OF MORTGAGES, (C. E.)

C A P. C C V I.

AN ACT TO AMEND AND EXPLAIN THE ORDINANCE CONCERNING THE REGISTRATION OF HYPOTHECS IN CANADA EAST.

[Assented to, 14th June, 1853.]

Preamble. WHEREAS the Ordinance of the Special Council of the heretofore Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, intituled, *An Ordinance to prescribe and regulate the Registering of Titles to Lands, Tenements and Hereditaments, real or immoveable Estates and of charges and incumbrances on the same, and for the alteration and improvement of the Law in certain particulars in relation to the Alienation and Hypothecation of real estates and the rights and interest acquired therein*, and the several Acts of the Legislature of Canada amending the said Ordinance, do not contain any enactments with respect to the cancelling of registrations having no foundation in law, or based upon Deeds conferring no legal title, privilege or hypothec on real or immoveable property, or based upon Deeds invalid, irregular, extinguished, acquitted and paid, or when the rights of privilege or hypothec have been removed by legal proceedings; And whereas the absence of an enactment of this nature involves heavy and serious disadvantages, and for other purposes hereinafter mentioned:

and void
or places,
or Canada
law, usage
ing: Pro-
contained
parties by
et, in re-
each and
ationed.

ted, That
oly to the

. E.)

THE REGIS-

, 1853.]

e Special
ovince of
Majesty's
scribe and
ads, Tene-
es and of
ation and
ion to the
rights and
egislature
tain any
ns having
g no legal
property, or
acquitted
have been
e absence
d serious
entioned :
Be

10 Vict. REGISTRATION OF MORTGAGES, (C. E.) Cap. 206, 1853.

Be it therefore enacted, &c., That whenever a creditor or person claimed to be so, shall have registered, in conformity with the formalities required by the Ordinance and Acts above mentioned, against the property of the debtor or person claimed to be so, any right, privilege or hypothec whatsoever, which he shall claim to possess against the property of such debtor, and the Deed upon which the right, privilege or hypothec shall be based, shall not be founded in law, or shall not legally confer any right or privilege or hypothec upon immoveable property, or shall be irregular, invalid, extinguished, acquitted and paid, or such right of privilege or hypothec shall have been removed by legal proceedings, and such creditor having been duly required thereto by such debtor, shall refuse to consent to the cancelling of the registration by him of such claim against the property of such debtor, the latter may thereupon by action brought before any competent Court of Civil Jurisdiction in the District in which the real property or any part thereof charged with such right, privilege or hypothec by virtue of the said registration, shall be situate, demand that the claim so registered be, according to the circumstances of the case, either declared null and to confer in law no right, privilege or hypothec on the property of the plaintiff, or null, irregular, unfounded in law, extinguished, acquitted and paid, or removed by legal proceedings, and that the registration of the said Deeds and any entry relating thereto, made in the office of the Registrar of the County in which such real property affected by such registration shall be situated, be cancelled in the registers of the said Registrar ; and upon satisfactory proof of the allegations contained in the declaration, the Court shall grant the prayer of the plaintiff with costs against defendant, as well those incurred in the action as in effecting such cancellation, and if the allegations be not proved to the satisfaction of the Court the action shall be dismissed with costs : Provided always, that an authentic copy of the Judgment ordering the cancellation shall be served in the usual manner upon the defendant at his domicile.

An action shall lie for cancelling any entry in the books of a Registrar, which ought to be cancelled and for the cancelling whereof the Defendant will not do what may be requisite on his part.

Judgment in such action.

Proviso.

II. And be it enacted, That the Registrar of every County in whose office such registration shall have been made, or his Deputy, upon production to him of a copy duly certified by the Clerk of the said Court, of the judgment ordering the cancellation of the said registration, and a Certificate that the delay to appeal from the judgment has expired, shall proceed to the cancellation thereof in the manner provided by the said Ordinance, for the cancellation

Registrar to cancel the entry in obedience to the Judgment.

cancellation of hypothecs discharged or paid, subject to the penalties imposed by the said Ordinance.

To what cases the foregoing clauses shall extend.

III. And be it enacted, That the foregoing enactments shall extend equally to registrations made before or after the passing of this Act.

Recital of doubts,

IV. And whereas doubts have arisen as to the interpretation of the said Ordinance with respect to the obligation of a *bailleur de fonds*, to register the Deed creating or constituting the privilege of *bailleur de fonds*, in the manner prescribed by the first and fourth sections of the said Ordinance, relative to the registration of hypothecary, privileged or judgment claims: And whereas to ensure every possible efficacy to the publicity of hypothecs it is expedient to remove these doubts; Be it therefore declared and enacted, and it is

Bailleur de fonds declared bound to register.

hereby declared and enacted, That by the terms of the said Ordinance, the *bailleur de fonds* shall be bound in conformity with the requirements of the said Ordinance, to register the Deed creating or constituting his right of *bailleur de fonds*, in the manner prescribed by the said Ordinance, and by the Acts amending the said Ordinance, with respect to the registering of hypothecary, privileged or judgment claims.

Delay allowed for registration after the passing of this Act.

V. And be it enacted, That from and after the passing of this Act, any *bailleur de fonds* whose claim shall have been created after the passing of this Act, shall be bound, in all respects, to register his said claim in the same manner as other hypothecary, privileged or judgment creditors are bound to do by virtue of the requirements of the said Ordinance, within the period of thirty days from the date of the passing of the Act creating his right of *bailleur de fonds*.

Delay allowed for registration of claims of *bailleur de fonds* created before the passing of this Act.

VI. And be it enacted, That every *bailleur de fonds* whose right of title of *bailleur de fonds* have been acquired subsequent to the operation of the said Ordinance, who shall not at the date of the passing of this Act, in conformity with the requirements of the said Ordinance and of the Acts amending the said Ordinance, have registered the Deed creating or constituting his right of *bailleur de fonds*, shall be bound to register the same within a period of six months from and after the passing of this Act, and failing so to do, such right of *bailleur de fonds* shall be null and of no effect whatever, with respect to any subsequent purchaser, donee or hypothecary, privileged or judgment creditor, for or upon good and valuable consideration, as provided by the said

Ordinance:

to the pen-

ing enact-
ions made

as to the
with respect
the Deed
nds, in the
f the said
privileged
y possible
to remove
and it is
the terms
ds shall be
ents of the
stituting his
y the said
ance, with
d or judg-

d after the
onds whose
e passing of
, to register
ary, privi-
e of the re-
thirty days
his right of

*bailleur de
fonds* have
ation of the
date of the
ments of the
Ordinance,
his right of
me within a
his Act, and
be null and
t purchaser,
ditor, for or
by the said
Ordinance:

16 Vict. REGISTRATION OF MORTGAGES, (C. E.) Cap. 206, 1853.

Ordinance: Provided always, that nothing in this section shall be construed to affect or extend to the judgments of the Civil Courts in Lower Canada which have by their judgments decided that the *bailleur de fonds* was not bound to register the Deed establishing his right of *bailleur de fonds*; and Provided also, that nothing in this section contained shall in any way affect the rights of parties who shall not have registered their claims of *bailleur de fonds*, until the expiration of the delay allowed for the registration of such claims, but such rights shall, until the expiration of the delay fixed as aforesaid, have the same force and effect as if this Act had never been passed.

Proviso: not to
affect judgment
already given.

Proviso: not to
affect any such
claim until after
expiration of
delay.

VII. And whereas by the twenty-eighth section of the above recited Ordinance, it is amongst other things ordained and enacted, That from and after the day on which the said Ordinance shall come into force, no general hypothec shall be stipulated in, or constituted by, or result from any Deed, Contract or obligation in writing whatsoever, to be thereafter made and entered into, and that no conventional hypothec, charge or incumbrance on lands, tenements or hereditaments, real or immoveable estates, should from and after the day last aforesaid, namely since the operation of the said Ordinance, be constituted or acquired in or by virtue of any Deed, Contract or Obligation in writing, which should be executed or made after the said day, according to law, unless the sum of money intended to be secured by such hypothec, charge or incumbrance should be, in the same Deed, Contract or Obligation in writing, or the acknowledgment thereof, specified, and that no such hypothec, as last aforesaid should be constituted or acquired for any other purpose than for securing the payment of a sum or sums of money specially mentioned as aforesaid: Be it enacted, That the said section has not applied, and shall not be construed to apply, and shall not apply to donations made *inter vivos* subject to life rents, payable in kind and appreciable money, or to any description of charges and obligations appreciable in money, and that the registration of such Deeds executed in form prescribed by the laws in force in this Province, and as hereinbefore mentioned, has preserved and shall preserve to persons interested therein all hypothecary claims and rights of *bailleur de fonds*, to the extent of the sum equivalent to the life rents and other charges and obligations appreciable in money, specified and stipulated in the said donations, in the same manner as if the said life rents and other charges and obligations had been and were estimated in money, by and in the said Deeds of donation, at the amount of the value to be estimated

Recital of S. 28
of said Ordinance.

The said s. 28 not
to apply to dona-
tions *inter vivos*
subject to life
rents, or
charges appreci-
able in money.

estimated in money of the said life rents and other charges and obligations.

Punishment of persons pretending to hypothecate property to which they have no claim.

VIII. And whereas no provision is made by the Ordinance aforesaid, with respect to the punishment of persons hypothecating, or who shall hereafter hypothecate immoveable property or rights, representing themselves to be proprietors thereof, or pretending to be such proprietors, or to possess claims thereto, and great inconvenience and frauds have resulted therefrom, which have hitherto remained unpunished: Be it therefore enacted, That whoever shall pretend to hypothecate any real property or properties, of which he shall not be proprietor, and to which he shall have no legal title, shall be guilty of misdemeanor, and being duly convicted thereof shall be liable to be imprisoned for a period not exceeding twelve calendar months, and to the payment of such fine and penalty not exceeding Twenty-five Pounds current money of this Province, as the Court before which such conviction shall take place, shall think proper to adjudge, and the proof of the ownership of the real property or claim shall rest with the person who shall as aforesaid have pretended to hypothecate the same.

S. 35 of the said Ordinance to apply not only to cases where the husband shall sell, but to those also where he shall hypothecate his property.

IX. And be it enacted, That notwithstanding any thing in the Thirty-fifth Section of the Ordinance cited in the Preamble to this Act, the said Section and the provisions thereof, and each and every one of them, shall after the passing of this Act extend to and have force and effect not only in the case therein mentioned of the sale and alienation of lands and tenements, real or immoveable, held in Free and Common Socage or *en fief*, or *à titre de cens* or *franc-alieu*, or under any other tenure whatever which shall or may be subject or liable to legal or customary dower, but shall extend to and have force and effect in every case in which the husband shall bind, mortgage or hypothecate such lands and tenements, real or immoveable estate held in Free and Common Socage or *en fief*, or *à titre de cens* or *franc-alieu*, or under any other tenure; and in any Deed or Conveyance which may be made by any husband by which such lands and tenements are so bound, mortgaged or hypothecated for or by reason of a loan, or for any other cause whatsoever, it shall be lawful for any married woman to join with her husband in such Deed, and release her dower and right to dower in the same manner and to the same effect as she is authorized to do by the said thirty-fifth Section above cited in the case of sale or alienation of lands and tenements as aforesaid.

ade by the
he punish-
shall here-
y or rights,
rs thereof,
ms thereto,
therefrom,
therefore
e any real
etor, and to
misdemean-
e to be im-
months, and
g Twenty-
Court before
k proper to
property or
resaid have

withstanding
of the Ordi-
act, the said
nd each and
ssing of this
fect not only
ale and alien-
held in Free
r *franc-alleu*,
may be sub-
all extend to
the husband
d tenements,
non Soccage
er any other
y be made by
are so bound,
an, or for any
married wo-
d release her
d to the same
y-fifth Section
nds and tene-

10 & 11 Vict. LIMITATION OF ACTIONS, ETC., (C. E.) Cap. 11, 1847.

LIMITATION OF ACTIONS, ETC., (C. E.)

C A P. X I.

AN ACT TO REPEAL A CERTAIN ACT THEREIN MENTIONED, AND TO MAKE
BETTER PROVISION FOR THE LIMITATION OF ACTIONS IN CANADA EAST.

[Assented to, 28th July, 1847.]

WHEREAS by an Act passed in England in the twenty-first year of the Reign of King James the First, and intituled, *An Act for Limitation of Actions, and for avoiding of Suits in Law*, it is among other things enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, and all actions of debt grounded upon any lending or contract without speciality, shall be commenced and sued within six years next after the cause of such actions or suits and not after: And whereas, under the law of Lower Canada, whereby it is provided that in proof of all facts concerning commercial matters, recourse shall be had in all Courts of Civil and Jurisdiction to the rules of evidence laid down by the Laws of England, doubts have arisen whether the enactment above cited is applicable in Lower Canada as a rule of evidence, and if it be so applicable what acknowledgment or promise within the said period of six years is sufficient to take out of the operation of the said enactment any case which would otherwise be within the same; for the removal of such doubts, Be it enacted, &c., That no action of account or upon the case, nor any action grounded upon any lending or contract without speciality, shall be maintainable in or with regard to any commercial matter, unless such action be commenced within six years next after the cause of such action; any law, custom or usage to the contrary notwithstanding.

Preamble.

English Act, 21st James I, cap. 16, cited.

No actions of account, &c., in commercial cases maintainable unless commenced within six years after cause of action.

II. And be it enacted, That no acknowledgment or promise by words only, shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the next preceding section, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby; and that where there shall be two or more joint contractors, or

No verbal promise to be sufficient evidence of a new contract to take the case out of the reach of section I.

Case of joint contractors, &c.
executors

executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said section so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any

Proviso as to effect of payment.

Proviso: in case of joint contractors &c., plaintiff may recover as against some, though he may fail as against others.

other or others of them: Provided always, that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatsoever: Provided also, that in actions to be commenced against two or more such joint contractors or executors or administrators, if it shall appear at the trial or otherwise that the plaintiff though barred by this Act as to one or more of such joint contractors or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgement or promise, or otherwise, judgment may be given and costs allowed for the plaintiff, as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

Provision when defendant shall plead that others ought to be sued with him, who are not liable under this Act.

III. And be it enacted, That if any defendant or defendants, in any action on any simple contract in or with regard to any commercial matter, shall plead any matter in abatement, to the effect that any other person or persons ought to be jointly sued, and issue be joined on such plea, and it shall appear at the trial or otherwise, that the action could not by reason of this Act be maintained against the other person or persons named in such plea or any of them, the issue joined on such plea shall be found against the party pleading the same.

No indorsement of payment on a promissory note, &c., by the party to whom such payment is made shall take the case out of this Act.

IV. And be it enacted, That no indorsement or memorandum of any payment written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment so as to take the case out of the operation of this Act.

This Act to apply to debts pleaded by way of set-off.

V. And be it enacted, That this Act shall apply to the case of any debt of a commercial nature, alleged by way of set-off on the part of any defendant, either by plea, notice, or otherwise.

No action to be maintained against a person for a promise made to pay a debt contracted while a minor,

VI. And be it enacted, That in or with regard to any commercial matter, no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon ratification after full

joint con-
of the said
only of any
d by any
ways, that
ake away
any prin-
Provided
against two
ors or ad-
l or other-
y this Act
ors or ex-
ess be en-
ndants, by
otherwise,
ntiff, as to
l recover,
e plaintiff.

defendant
mple con-
ial matter,
the effect
be jointly
ea, and it
could not
person or
joined on
same.

dersement
n or made
ge or other
hom such
sufficient
e case out

shall ap-
ial nature,
f any de-
vise.

th regard
ll be main-
upon any
debt con-
tion after
full

10 & 11 Vict. LIMITATION OF ACTIONS, ETC., (C. E.) Cap. 11, 1847.

full age of any promise or contract in any such matter made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

unless such promise be in writing

VII. And be it enacted, That in or with regard to any commercial matter, no action shall be maintainable whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain credit, money or goods thereupon, unless such representation or assurance be made in writing, signed by the party to be charged therewith.

Cases of guar-
antees in which
a written memo-
randum shall be
necessary.

VIII. And whereas it hath been doubted whether the enactments of the Act passed in England in the twenty-ninth year of the Reign of King Second, and intituled, *An Act for prevention of Frauds and Perjuries*, do extend in Lower Canada to certain executory contracts for the sale of goods which nevertheless are within the mischief intended to be remedied by the said Act, and it is expedient to extend the same to such executory contracts: Be it therefore enacted, That the provisions of the said Act shall extend to all contracts for the sale of goods of the value of ten pounds sterling and upwards, notwithstanding the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

Recital.

Charles the

English Statute
29th Carol. II., c.
3, cited.

Provisions of the
said Act to ex-
tend to contracts
for goods to the
value of £10 ster-
ling.

IX. And whereas divers errors have crept into the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act for the Limitation of Actions, for avoiding Suits at Law, and for rendering a written memorandum necessary to the validity of certain promises and engagements, in that part of the Province which heretofore constituted the Province of Lower Canada*, whereby the sense and intent of the said Act have been marred: Be it therefore enacted, That the said Act shall be and is hereby repealed.

8 V. c. 31 repealed

X. And be it enacted, That this Act shall apply only to "Lower Canada," which words in this Act shall be understood to mean all that portion of this Province which formerly constituted the Province of Lower Canada.

This Act shall
apply to Canada
East only.

CREDITORS TO ATTACH THE EFFECTS OF DEBTORS, (C. E.)

C A P. X V I I I.

AN ACT TO ENABLE CREDITORS TO ATTACH THE EFFECTS OF DEBTORS ABOUT TO LEAVE THE PROVINCE IN CASES UNDER TEN POUNDS.

[Assented to, 2nd August, 1851.]

Preamble.

WHEREAS persons often evade the payment of their just debts, in cases where they are indebted to individual creditors to an amount less than Ten Pounds, by secreting or making away with their estate, debts and effects, or by leaving the Province before judgment can be obtained against them: For the prevention thereof, Be it enacted, &c., That Process of Attachment, as well in the hands of the debtor as in the hands of a third person or of third persons, (*arrêt simple*, or *saisie arrêt* or *entiercement*) prior to trial and judgment, may issue from the Circuit Court in Lower Canada, in all cases where the sum demanded is under Ten Pounds and exceeds One Pound and Five Shillings, current money of this Province, upon the affidavit of the plaintiff or his agent to the effect that the defendant or proprietor of such estate, debts, or effects, is indebted to the plaintiff in a sum exceeding One Pound and Five Shillings, current money of this Province, and that he is about to secrete, or make away with the same, or doth abscond, or is about to leave the Province to defraud his creditors; Provided always, that the Commissioners' Courts shall have the like power to issue such Process of Attachment in cases within their jurisdiction, and above the sum of One Pound Five Shillings.

Clerks of Circuit Courts may issue such attachment, &c.

II. And be it enacted, That any Clerk of the Circuit Court or Commissioners' Court is hereby authorized to receive the necessary affidavit and issue such Writs of Attachment as aforesaid, in the same manner as he is now permitted and authorized to do in cases above Ten Pounds: Provided nevertheless, that nothing herein enacted shall prevent any Judge of the Superior Court or Circuit Court from receiving such affidavit, and from granting a Fiat upon which to issue such Writs of Attachment as aforesaid; and the said Judges are hereby empowered to administer and receive such affidavits and

Proviso.

18, 1851.

TS OF

RES ABOUT
DS.

t, 1851.]

e payment
here they
than Ten
debts and
at can be
of. Be it
ent, as well
ands of a
simple, or
and judg-
in Lower
under Ten
ent money
is agent to
tate, debts,
eding One
vince, and
e same, or
defraud his
Courts shall
achment in
One Pound

erk of the
t is hereby
idavit and
foresaid, in
ed to do in
vertheless,
revent any
iving such
issue such
Judges are
idavits and
grant

14 & 15 Vict. PROPERTY OF ABSENTEES, ETC., (C. E.) Cap. 60, 1851.

grant such Fiats in the same manner as they are now authorized and empowered to do in cases above Ten Pounds.

III And be it enacted, That the additional costs attendant upon the issuing of such Writs of Attachment as hereinbefore provided for, shall be taxed by a Judge of the Court at such sum as in his discretion he may think right, unless and until they be regulated by a Tariff of the Court under which the Clerk of the Court shall then tax such costs, and in the Commissioners' Court such additional costs shall be the same as in cases of seizure under execution.

Costs.

IV. And be it enacted, That this Act shall remain in force for two years, and from thence until the end of the then next Session of the Provincial Parliament, and no longer.

Duration of this Act.

V. And be it enacted, That this Act shall apply only to Lower Canada.

This Act to apply to C. E. only.

ACTIONS AFFECTING REAL PROPERTY OF ABSENTEES, (C. E.)

C A P. L X.

AN ACT TO AMEND THE LAW OF CANADA EAST AS REGARDS THE DISTRICT OR CIRCUIT IN WHICH ACTIONS OR PROCEEDINGS AFFECTING REAL PROPERTY MAY BE BROUGHT, AND TO MAKE FURTHER PROVISION AS TO CASES IN WHICH ABSENTEES MAY BE PARTIES.

[Assented to, 30th August, 1851.]

WHEREAS it is expedient to make better provision as to the District or Circuit in which any real or mixed action may be brought in L. C.; and whereas it is also necessary to make more effective provision with regard to suits *en licitation* and *en partage*, and to proceedings in actions against Absentees: Be it therefore enacted, &c., That in all real or mixed actions in Lower Canada, the cause of such actions respectively shall be held to have arisen in the District or Circuit, as the case may be, wherein the real property in question in such actions respectively is situate.

Preamble.

The cause of action held to have arisen in the District or Circuit wherein the real property is situated.

II. And be it enacted, That whenever any real property shall be situate partly in one District or

Real or mixed actions, when the property is situate

Circuit

uate partly in one District or Circuit, and partly in another, may be brought in either, and judgment, executed accordingly.

Circuit and partly in another, it shall be lawful for the Plaintiff to bring any real or mixed action in regard to such real property in either of the said Districts or Circuits at his option, and the whole of such real property may be partitioned (*partage*) or sold by licitation (*licite*) or seized and sold under judgment obtained in any such action, in the same manner as if the said real property were wholly situate in the District or Circuit in which any such judgment shall have been rendered, and this provision shall apply to any Judgment rendered for any cause whatsoever against a Defendant possessing any real property situate partly in one District or Circuit and partly in another, and any proceeding for confirmation of title, (*demande en ratification*) *en licitation* or *en partage*, may be commenced, prosecuted, allowed and carried into effect in one or the other of the Districts or Circuits in which the real property in question may be partly situate at the option of the applicant, as if such real property were wholly situate in the District or Circuit in which the applicant shall have chosen to commence his proceedings.

Proceedings against Absentees to be notified at the Prothonotary's Office, in certain cases.

III. And be it enacted, That in all actions brought in conformity with the ninety-fourth section of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, *An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada*, against any absent party, all notices or proceedings subsequent to the advertisement required by way of Summons to appear and required by Law or by any Rule of Practice, in order to obtain or execute any Judgment against such absent party, or for appealing from any such Judgment, or determining and trying any opposition or contestation arising in such action, or for giving effect to any Judgment rendered against such absent party in any action *en partage* or *en licitation*, may be lawfully made and notified at the office of the Prothonotary or Clerk of the Court in which such action may be pending; and whenever

Judges empowered to appoint Arbitrators or experts for absentees

it shall be necessary in any such action *en partage* or *en licitation* against any absent party to appoint arbitrators or experts to examine the real property to which such action relates, and to determine whether the same can be partitioned with advantage, it shall be lawful for the Court before which such action shall be brought during Term, or for any one of the Judges thereof in vacation, to appoint, for such absent party, one or more arbitrators or experts to act conjointly with the arbitrator or experts appointed by the other party or parties to the said action.

LAWS OF PATENTS ACT, (C. E. & W.)

CAP. XXIV.

AN ACT TO CONSOLIDATE AND AMEND THE LAWS OF PATENTS FOR INVENTIONS IN THIS PROVINCE.

[Assented to, 30th May, 1849.]

WHEREAS the Acts severally in force in Upper Canada and in Lower Canada, for the encouragement of useful Arts, namely the Act of the heretofore Province of Lower Canada, passed in the sixth year of the Reign of His late Majesty, King William the Fourth, intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the provisions therein made for the encouragement of useful Arts in this Province*,—and the Act of the heretofore Province of Upper Canada, passed in the seventh year of the Reign of His late Majesty King George the Fourth, intituled, *An Act to encourage the progress of useful Arts within this Province*, differ in several particulars, and it is expedient to assimilate the provisions of the law in this respect, and to amend and modify the said Acts, and to extend the advantages and privileges of Patent Rights hereafter to be granted, and to make the same co-extensive with the Province of Canada: Be it therefore enacted, &c., That any person, a subject of Her Majesty and resident in this Province, having discovered or invented any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, or the principle thereof, the same not being known or used in this Province by others before his or their discovery or invention thereof, and not at the time of the application for a Patent in public use or on sale in this Province with his consent or allowance, as the inventor or discoverer thereof, and desiring to obtain an exclusive property therein, may make application by petition, in the manner provided in and by the said recited Acts, to the Governor or Administrator of the Government of this Province, expressing such desire, and the said Governor or Administrator shall, on the due proceedings being had as by the said Acts directed to be done, grant such Patent, which shall be good and available to the said grantee, his heirs, lawful representatives or assigns, for the period of fourteen years from the granting of the same, after the said Letters Patent shall have

Preamble.

C. E., 6 Wm. 4, c. 34.

C. W., 7 Geo. 4, c. 5.

Who may obtain a Patent, and mode of proceeding to obtain one.

Effect of the Patent.

been recorded in the manner directed by the said Acts, and upon the assignment of the same previous to the grant aforesaid, for the same period, after such assignment shall have been recorded in the office of the Secretary of the Province.

In actions for damages for infringement of rights granted by Patent, the Court may grant treble costs.

shall be rendered for the Plaintiff in such action, it shall be in the power of the Court to render judgment on such verdict, to the amount found by such verdict, as the actual damages sustained by the Plaintiff, with treble costs, and such judgment shall be enforced and recovered in the same manner and by the same proceedings at law, as are used and in practice in that part of this Province in which the action shall be brought, as to any

Proviso as to matter of defence.

other judgment for damages; Provided always, that nothing herein contained shall have the effect or be construed to have the effect of depriving a Defendant in any such action from specially pleading the matter of defence to the said action, specified and detailed in the said Acts; And

Proviso: Patent not void, in certain cases, altho' if the discovery was known in a foreign country.

further provided, that whenever it shall satisfactorily appear that the Patentee at the time of making his application for the Patent, believed himself to be the first inventor or discoverer of the thing

Proviso: Court may adjudge as to costs, although the plaintiff fails in his action.

patented, the same shall not be held to be void on account of the invention or discovery or part thereof, having been before known or used in a foreign country, it not appearing that the same or any material or substantial part thereof, had before been patented or described in any printed publication; And provided also, that whenever the Plaintiff shall fail to sustain his action, on the ground that in his specification of claim is embraced more than that of which he was the first inventor or discoverer, or if it shall appear that the Defendant had used or violated any part of the invention, justly and truly specified and claimed as new, it shall be in the power of the Court to adjudge and award as to costs, as may appear to be just and equitable.

Right of obtaining a Patent to devolve on the legal representative, in case of the inventor's decease before a Patent is granted.

III. And be it enacted, That when any such subject, being an inhabitant of the said Province as aforesaid, hath made or shall have made any new invention, discovery, or improvement, on account of which a Patent might, by virtue of the said recited Acts or of this Act, be granted, and such person shall die before any Patent shall be granted therefor, the right of applying for and obtaining such Patent shall devolve on the Ex-

and upon
said, for
recorded

tion for
the thing
any Pa-
granted,
a verdict
shall be in
dict, to
ages sus-
ment shall
the same
at part of
as to any
always,
the effect
endant in
ference to
acts; And

satisfac-
e of mak-
d himself
the thing
ant of the
re known
same or
patented
And pro-
shall fail to
his speci-
n that of
all appear
the inven-
shall be in
cs, as may

any such
Province
made any
nt, on ac-
tue of the
ch person
e right of
n the Ex-
ecutor

ecutor or Administrator of such person in trust for the heir at law of the deceased, in case he shall have died intestate, or on his legal representative in any other case, in as full and ample a manner, and under the same conditions, limitations and restrictions, as the same was held or might have been claimed or enjoyed by the deceased in his lifetime; and when the application shall be made by such executor, administrator or representative, the declaration required to be made and taken shall be so varied as to be applicable to him.

As to the declara-
tion in such case.

IV. And be it enacted, That in case of interfering applications for Patents, the decision of the same shall be made by Arbitrators in the manner and according to the directions in the said recited Acts contained: Provided always, that nothing in the said Acts nor in this Act contained shall be construed to deprive an original and true inventor of the right to a Patent for his invention by reason of his having previously taken out Letters Patent therefor in a foreign country, and of the same having been published at any time within six months next preceding the filing of his specification and drawing, as required by the said Acts or by this Act.

Arbitration in
case of interfering
applications.

Proviso as to par-
ties having taken
patent in a foreign
country.

V. And be it enacted, That every Patent shall be assignable in law either as to the whole interest or any undivided part thereof, by an instrument in writing, which assignment and also every grant and conveyance of the exclusive right under any Patent to make and use and to grant to others to make and use the thing patented within and throughout this Province, shall be recorded in the Office of the Provincial Secretary within two months from the execution thereof.

Patents to be as-
signable in law as
to the whole or
any undivided
part of the inter-
est therein, and
how assigned.

VI. And be it enacted, That every Patent hereafter to be issued may be made and issued to the Assignee or Assignees of the inventor or discoverer, the assignment thereof being first entered and the application therefor being duly made, and duly and solemnly declared by the said inventor; and in all cases the applicant for a Patent hereafter to be granted shall be held to furnish duplicate drawings, whenever the case admits of drawings, one of which shall be deposited in the Office of the Provincial Secretary, and the other shall be annexed to the Patent, and considered a part of the specification thereof, and a copy of the specification shall be in all cases annexed to such Patent.

Patents may be
issued to Assign-
ees of inventors.

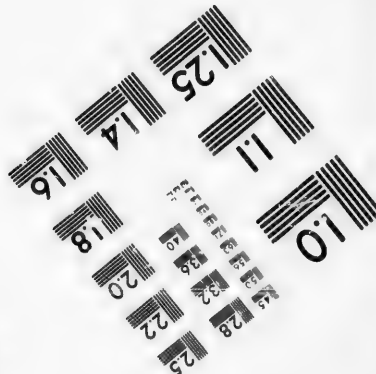
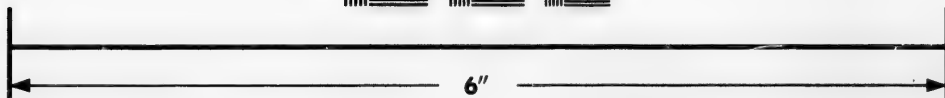
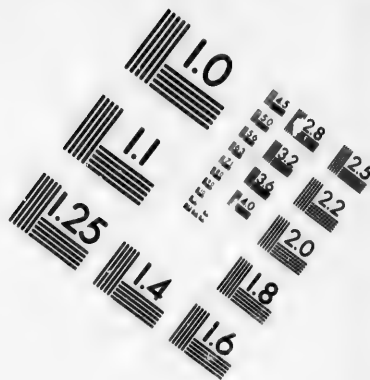
as aforesaid,
and specifications

Duplicate draw-
ings to be fur-
nished hereafter
by applicants.

VII. And be it enacted, That whenever any Patent heretofore granted or hereafter to be granted

A new patent
may be obtained
in certain cases.





Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0

01
02
03
04
05
06
07
08
09
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

upon surrender
of the defective
one.

as aforesaid, shall be inoperative or invalid by reason of a defective or insufficient description or specification, if the error have or shall have arisen from inadvertency, accident or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Patentee to surrender such Patent and to obtain a new Patent to be issued to him for the same invention for the residue of the unexpired period of the original Patent, in accordance with the Patentee's corrected description and specification: and in case of his death or of any assignment by him made of the original Patent, a similar right shall vest in his executor, administrator or legal representative, and the Patent so re-issued, together with the corrected description and specification thereof, shall have the same effect and operation in law on the trial of all actions thereafter commenced for causes subsequently accruing as if the same had been originally filed in such corrected form before the issuing of the original Patent.

Provision with
respect to Pa-
tentee who has
made his speci-
fication of claim
too broad.

VIII. And be it enacted, That whenever, by mistake, accident or inadvertence, and without any wilful default or intention to defraud or mislead the public, any Patentee shall have made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, or shall have in his specification claimed to be the original and first inventor or discoverer, of any material or substantial part of the thing patented, of which he was not the first and original inventor, and shall have no legal or just right to claim the same, in every such case the said Patentee, his executor, administrator, legal representative or assigns, whether of the whole or of a fractional interest thereof, may make disclaimer of such parts as he shall not claim to hold by virtue of the Patent or assignment thereof, stating in the said disclaimer the extent of his interest in such Patent, and such disclaimer shall be in writing, attested by one witness and recorded in the Office of the said Secretary, and shall be thereafter taken and considered as part of the original specification, to the extent of the interest possessed in the Patent or right secured thereby by the disclaimant or by those claiming by or under him subsequent to the entry thereof: But such disclaimer shall not affect any actions pending at the time of its entry, except so far as may relate to the question of unreasonable neglect or delay in filing the same; and the Patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and *bonâ fide* his own, or not disclaimed, provided it shall be a material and substantial part of the thing patented, and be definitely distinguished from other parts so claimed without right as aforesaid: and such Patentee, his executor, administrator or legal representative

The disclaimer
shall not affect
pending actions,
&c.

the same; and the Patent shall be deemed good and valid for so much of the invention or discovery as shall be truly and *bonâ fide* his own, or not disclaimed, provided it shall be a material and substantial part of the thing patented, and be definitely distinguished from other parts so claimed without right as aforesaid: and such Patentee, his executor, administrator or legal representative

tative and assigns, whether of the whole or a fractional interest therein as aforesaid, shall be entitled to maintain a suit at law or in equity on such Patent for any infringement of so much of the invention or discovery as shall be *bonâ fide* his own, as aforesaid, notwithstanding such disclaimer or larger specification as aforesaid; and in case of judgment on verdict in his favor, he shall not be entitled to recover costs against the Defendant unless he shall have entered as aforesaid in the Office of the Provincial Secretary, the said disclaimer of all that part of the thing patented so claimed without right; Provided also, Proviso. that no person bringing such suit shall be entitled to the benefits contained in this Section, who shall have unreasonably neglected or delayed to enter in the said Office the disclaimer as aforesaid.

IX. And be it enacted, That whenever any application shall be made to the Governor or Administrator, as aforesaid, for any addition of a newly discovered Improvement, to be made to an existing Patent, or whenever a Patent shall be returned for correction and re-issue, the specification of claim annexed to every such Patent shall be subject to revision and restriction in the same manner as original applications for Patents, and such Improvements shall not be granted in the one case, nor the re-issue allowed in the other case, until the applicant shall have entered a disclaimer, or altered his specification of claim in accordance with the revision or restriction thereon.

Claims for application for additions to existing patents subject to revision as to original applications.

X. And be it enacted, That whenever a Patent shall be returned for correction and re-issue, and the Patentee shall claim several Patents to be issued for distinct and separate parts of the thing patented, the same shall be granted in the same manner as original Patents; Provided always, that no addition of an Improvement shall be made to any heretofore granted, nor any new Patent be issued for an improvement made in any machine, manufacture or process, to the original Inventor, assignee, or possessor of a Patent therefor, nor any disclaimer be admitted to entry, until a duplicate model and drawing of the thing originally intended, verified as aforesaid, shall have been deposited in the proper Office therefor, nor shall any Patent be granted for an invention, improvement or discovery, the model or drawing of which shall have been lost, until another model and drawing shall in like manner be deposited.

Provision with respect to patents returned for correction,

Proviso: additional and corrected models and drawings to be furnished.

XI. And be it enacted, That whenever any Patentee shall desire an extension of his patent beyond the term of its limitation, he may apply therefor in writing, to the Governor or Administra-

Provision with respect to the application of a patentee for an extension of his patent beyond

for

the term of its limitation.

tor as aforesaid, setting forth the grounds thereof, and causing the notice of such application to be published three times each in the *Canada Gazette*, and in two other Newspapers published respectively in the English and French languages in that section of the Province in which he shall reside, and also of the time of the said application, that any person may appear and show cause why the extension should not be granted;

The application shall be decided upon by a board.

And the President of the Executive Council for the time being, the Attorney-General for that part of the Province in which the applicant resides, and the Inspector-General for the time being, shall constitute a board to hear and decide upon the said application and objection thereto, if such there be, who shall sit for that purpose at the time designated in the published notice thereof, at the office of the Registrar of the Province, at the City of Montreal, or where the seat of the Provincial Government may be, and a true statement on oath by the Patentee shall be then and there submitted to the said Board of the ascertained value of the invention, and of the receipts and expenditure in detail, exhibiting a true and faithful account of the loss or profit in any manner accruing to him from the same: And if upon a hearing of the matter it shall appear to the

The board may grant an extension for seven years.

Board, having due regard to the public interest therein, that the said term should be extended, by reason of the Patentee without fault on his part, having failed to obtain from the use and sale of his Invention, a reasonable remuneration for the time, ingenuity and expense bestowed thereon, and the introduction thereof into use, the said Patent shall be renewed and extended by making a certificate thereon by the said Board, of such extension for the term of seven years from and after the expiration of the first term, which certificate, with a certificate of the judgment and opinion of the said Board shall be entered in the said Secretary's Office, and the said Patent shall thereupon have the same effect in law as if

Effect of the extension.

it had been originally granted for the term of twenty-one years; And the benefit of such renewal shall extend to Assignees and Grantees of the right to use the thing patented to the extent of their respective interest therein;

Provido.

Provided always, That no extension of a Patent shall be granted after the expiration of the term sought to be extended, nor unless the petition or application therefor shall be presented six calendar months at the least before the expiration of such term.

Persons who have purchased, discovered, &c., machines, &c., prior to the application for a

XII. And be it enacted, That every person as aforesaid, or Corporation established in this Province, who has or shall have purchased, constructed, invented, or discovered, as aforesaid, any

nds thereof,
cation to be
and in two
English and
n which he
e said appli-
and show
be granted;
time being,
a which the
time being,
said appli-
shall sit for
notice there-
the City of
nment may
shall be then
ned value of
ture in de-
the loss or
same: And
ear to the
olic interest
extended, by
on his part,
Invention, a
nd expense
use, the said
a certificate
the term of
term, which
inion of the
Office, and
in law as if
he term of
uch renewal
to use the
st therein;
of a Patent
of the term
application
t the least

new machine, manufacture, or composition of matter, prior to the application for a Patent therefor, by a person claiming to be the inventor or discoverer thereof, shall be held to possess the right to use and vend to others to be used, the specific machine, manufacture, or composition of matter, so made, purchased, or introduced, without liability therefor to the Patentee or any other person interested in such invention: and no Patent shall be held to be invalid by reason of such purchase, sale or use, prior to the application for such Patent as aforesaid, except on proof of abandonment of such invention to the public, or that such purchase, sale or prior use has been or existed for more than one year prior to such application for a Patent.

Patent by another person claiming to be the inventor, entitled to use such machines, &c., without liability to Patentee.

And the patent not to be invalidated, except in certain cases.

XIII. And be it enacted, that any subject, inhabitant of this Province as aforesaid, who, by his industry, genius, efforts, and expense, may have invented or produced any new or original design for a manufacture, whether of any metal or mixed metals, or other material or materials, or any new and original design for the printing of woollen, silk, cotton or other fabrics, or any new or original design for a bust, statue, or *bas relief*, or composition in *alto* or *basso relievo*, or any new or original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material, or any new and useful pattern or print or picture to be either worked into or worked on, or printed or painted or cast, or otherwise fixed on any article of manufacture, not known or used by others before his invention or production thereof, and prior to the time of his application for a Patent therefor, and who shall desire to obtain an exclusive property or right therein, to make, use, sell and vend the same, or copies of the same to others, to be by them made, used, sold or vended, may make application in writing, by petition to the Governor or Administrator aforesaid therefor, expressing such desire; and the Governor or Administrator aforesaid, on due proceedings had as by the said Acts and this Act provided, may grant a Patent therefor as in the case now of an application for a Patent: Provided, that the duration of the said Patent shall be limited to seven years from the grant of the same, and that all the regulations and provisions in the said Acts and in this Act for the obtaining or protection of Patents, shall apply to applications for and to Patents granted under this section.

Provision with respect to the granting of Patents, for designs and works of art.

Proviso: No such patent to be granted for more than seven years.

XIV. And be it enacted, That a solemn declaration shall be substituted for the oath required to be taken in the said Act, in matters of Patents, to the effect of the requirements of the said oath,

A solemn declaration to be taken in matters of patents instead of an oath.

except in suits, actions or proceedings in Courts of Justice in relation to Patents, and that when the applicant is not for the time being residing in the said Province, the said declaration shall be made before any Minister Plenipotentiary, *Chargé d'Affaires*, Consul or Agent, holding commission under the Government of Great Britain, or any Notary Public of the Country in which such applicant may be or happens to be at the time of making the same.

Penalty on persons counterfeiting name of Patentee, &c.

XV. And be it enacted, That if any person or persons shall write, paint, print, mould, cast, carve, engrave or stamp upon anything made, used or sold by him, for the sole making or selling of which he hath not or shall not have obtained Letters Patent, the name or any imitation of the name of any Patentee for the sole making or vending of such thing without the consent, in writing, of such Patentee or of his assigns or legal representatives, or if any person upon any such thing not purchased from the Patentee or from his assigns or representatives, or from a vendee, or not having his license or consent in writing, shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise make or affix the word or words "Patent," "Letters Patent," by the "Queen's Patent," "Patentee," or any word or words of like kind, meaning or import, with the view or intent of imitating or counterfeiting the stamp, mark, or other device of the Patentee, or shall affix the same or any word, stamp or device of like import on any unpatented article, for the purpose of deceiving the public, he shall be deemed to have committed a misdemeanor, and shall be punished by fine, or by imprisonment in the Common Gaol of the District or County in which the offender is brought to trial, or by both fine and imprisonment, at the discretion of the Court trying the same; Provided the fine do not exceed

Proviso.

Fifty Pounds currency in amount, and the imprisonment do not exceed Three Months in duration.

Patentees to stamp, &c. the date of patent, on the articles.

Penalty for contravention.

XVI. And be it enacted, That from the passing of this Act, all Patentees and Assignees of Patents hereafter to be granted, shall stamp, engrave, or cause to be stamped or engraved on each article vended or offered for sale, the date of the Patent thereof; and any persons patented or assigned neglecting so to do shall be deemed to have committed a misdemeanor, and shall be liable therefor to the same penalties as are provided in the next preceding Section.

Recital.

XVII. And whereas it is necessary that a similar and convenient remedy should be had for the said Province in general, for the repeal of Letters Patent issued under the authority of the said Acts or of this Act, and fraudulently

duler
upon
That
shall
to im
as a
the C
petiti
there
sentat
afores
the S
case r
upon
and s
and h
Court,
Court,
of rep
procee
accord
in Eng
and of
shall b
judgm
upon t
of the
said Pa
from th
such se
be had,
returne
Court
Patent,
the said

XVIII
after to
said Ac
privileg
statute i
contrary
nothing
or discov
manufac
and use
manufac
principle

Justice in
not for the
declaration
y, *Chargé*
under the
olic of the
to be at the

y person or
cast, carve,
de, used or
he hath not
ame or any
making or
ng, of such
s, or if any
Patentee or
ndee, or not
paint, print,
ake or affix
the "Queen's
nd, meaning
unterfeiting
or shall affix
port on any
e public, he
and shall be
Gaol of the
t to trial, or
of the Court
o not exceed
and the im-

the passing
es of Patents
engrave, or
e vended or
thereof; and
lecting so to
or, and shall
vided in the

that a similar
for the said
Patent issued
ct, and frau-
dulently

dulently or surreptitiously obtained, issued improvidently, or upon false suggestion; Be it therefore enacted, That from and after the passing of this Act, it shall and may be lawful for any person desirous to impeach such Letters Patent for any such cause as aforesaid, to obtain an exemplification under the Great Seal of this Province, of such Patent, and of the petition or application of the petitioner therefor or Patentee thereof, or his assigns, executor, administrator or legal representative as aforesaid, and of the drawings and specifications aforesaid, and to have the same filed in the office of the Clerk of the Superior Court, for such section of the said Province, as the case may be, in which such repeal shall be sought, and thereupon the Letters Patent, the petition and application, drawing and specification aforesaid, so exemplified, shall be considered and held by the said Court as remaining of record in the said Court, so that a Writ of *scire facias*, under the Seal of the said Court, may issue grounded upon the said record for the purpose of repealing the same for legal cause as aforesaid, if upon the proceedings which shall be had upon the said Writ of *scire facias*, according to the law and practice of the Court of Queen's Bench in England aforesaid, and under the provisions of the said Acts and of this Act, the said Letters Patent so sought to be repealed, shall be adjudged and declared void; and a Certificate of the said judgment shall, at the request of any person or party, be entered upon the margin, of the enrolment of such Patent, in the Office of the Secretary and Registrar of this Province, whereupon the said Patents shall be considered to be cancelled and made void from the entry thereof; Provided always, that no such *scire facias* shall issue or proceedings thereon be had, unless the same Writ shall issue and be returned into the said Court in a term of the said Court within two years after the grant of the said Letters Patent, or in the Term or Session of the said Court next after the said two years, and not afterwards.

Provision with
respect to the
repeal of Letters
Patent under the
above mentioned
Acts.

Proviso: *Scire
facias* not to
issue after a
certain time from
date of Patent.

Patents to ex-
tend through-
out Canada.

XVIII. And be it enacted, That all Patents hereafter to be granted under the provisions of the said Acts or of this Act, shall extend and be privileged throughout the said Province of Canada; any law or statute in force in either section of the said Province to the contrary notwithstanding; Provided always, that nothing herein contained shall extend to inventions or discoveries of any new or useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter, or the principle thereof made, discovered or used in the United States

Proviso: Act not
to prevent the
importation, &c.,
of articles in-
vented in the
United States,
or the British
Dominions.

of America, or in any part of Her Majesty's Dominions in America, or be construed to prevent the free importation thereof into this Province, for sale by any person or persons or for their use or otherwise from the United States, or Her Majesty's said Dominions.

Inconsistent provisions of above mentioned Acts repealed.

XIX. And be it enacted, That all and every of the provisions in the said recited Acts, inconsistent or at variance with the provisions of this Act, shall be and are hereby repealed; Provided that nothing in this Act contained shall have the effect of reviving or giving effect to any Act or Acts repealed by the said Act first recited of the heretofore Province of Lower Canada, but the same shall remain and continue repealed; Provided that all actions and proceedings in law or equity sued out in other

Proviso.
sections of the Province, prior to this Act coming into force and effect, shall and may be prosecuted to final judgment and execution as if this Act had not been passed, and that all applications or petitions for Patents pending at the time of this Act coming into force and effect, shall be proceeded with and acted on in the same manner as if they had been made after this Act shall have come into operation.

Interpretation of words in this Act.

XX. And for the interpretation of this Act—Be it enacted, That the expressions "useful art, machine, manufacture or composition of matter," shall include any such thing herein referred to whether it be made by hand or by machinery or by both of those means; the expression "Foreign Country" shall include any country not under the British Dominion and subject to the Crown thereof, and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

ap. 24, 1840.

ominions in
tion thereof
or for their
ajesty's said

and every of
inconsistent
his Act, shall
g in this Act
effect to any
f the hereto-
remain and
actions and
out in other
to force and
at and execu-
applications
s Act coming
acted on in
this Act shall

this Act—Be
seful art, ma-
matter," shall
t be made by
he expression
ot under the
reof, and the
s the singular
the feminine

14 & 15 Vict.

PATENTS FOR INVENTIONS.

Cap. 79, 1851.

PATENTS FOR INVENTIONS, EXTENDED TO BOTH SECTIONS OF THE PROVINCE, &C.

C A P. L X X I X.

AN ACT TO ENABLE PARTIES HOLDING PATENTS FOR INVENTIONS CONFINED TO ONE SECTION OF THIS PROVINCE, TO OBTAIN THE EXTENSION OF THE SAME TO THE OTHER SECTION THEREOF, AND FOR OTHER PURPOSES THEREIN MENTIONED.

[Assented to, 30th August, 1851.]

WHEREAS it is expedient that parties holding Patents for the invention of any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on the same, issued under the Acts of Parliament of the respective Provinces of Upper and Lower Canada previous to the Union of the same, should be enabled to obtain the extension of the exclusive privileges granted by such Patents, to that section of the United Province not embraced within such Patents; and whereas by the eighteenth section of the Act of the Parliament of this Province, passed in the twelfth year of Her Majesty's Reign, chaptered twenty-four, and intituled, *An Act to consolidate and amend the Laws of Patents for Inventions in this Province*, it is provided that all Patents thereafter to be granted under the provisions of the said Acts or of that Act, should extend and be privileged throughout the said Province of Canada, but no effectual provision is made for the extension of privileges theretofore granted in either section of the Province to the other section thereof, as aforesaid: Be it therefore enacted, &c., That whenever any party holding a Patent for any such invention, issued under the authority of either of the Acts above mentioned, shall be desirous of obtaining the extension of the privileges thereby granted to the other section of this Province, it shall be lawful for the Governor of this Province, upon application made to him to that effect, and on the due proceedings being had, as directed by this Act, (except that no declaration of invention or discovery shall be required, but it shall be sufficient to allege that the applicant holds a patent for the other section of the Province,) to issue Letters Patent to such grantee, which shall be available in that section of the Province not embraced by the Patent already issued as aforesaid, which said Letters Patent so to be issued as aforesaid, shall

Preamble.

12 Vict. c. 24.

How a party holding a Patent for an invention extending only to one section of the Province, may obtain the extension thereof to the other section.

shall be subject to all the provisos, conditions, reservations and restrictions mentioned and contained in the said Act of this Province, and shall, as regards such section of the Province, convey to the grantee all the privileges conferred by the said last mentioned Act, for and during the period of fourteen years, and shall for such section of the Province as aforesaid be renewable for the period and under the conditions prescribed in the eleventh section of the said last mentioned Act: Provided

Proviso. always, that nothing herein contained shall be construed to extend the period limited by Patents heretofore issued under either of the said Acts of the late Province of Upper or Lower Canada, within the sections to which the said Patents are thereby confined: Provided also, that

Proviso as to persons using the invention before such extension.

every person or corporation in that section of the Province to which such Letters Patent shall extend solely by virtue of this Act, who has or shall

have purchased, constructed or used, within such section of the Province as last aforesaid, any machine, manufacture or composition of matter, included in such Letters Patent, prior to the application therefor by the party entitled thereto, under this Act, shall be held to possess the right to use and vend to others to be used, the specific machine, manufacture or composition of matter, so actually purchased, constructed or used by him, before such application as aforesaid, without liability to the Patentee or other person interested in the invention for which Letters Patent shall have been obtained as aforesaid, for such section of the Province.

Act of C. E. 6 Will. 4, c. 34, and of C. W., 7 Geo. 4, cap. 5, repealed.

II. And whereas it is expedient to repeal the several Acts of Upper and Lower Canada respectively, relating to Letters Patent for Inventions, and to consolidate and re-enact as applicable to the whole Province, such of the provisions thereof as have been found useful, and as are not inconsistent with the Act cited in the preamble to this Act: Be it therefore enacted, That the Act of the Parliament of Lower Canada, passed in the sixth year of the Reign of King William the Fourth, and intituled, *An Act to repeal certain Acts therein mentioned, and to consolidate the provisions therein made for the encouragement of useful arts in this Province*, and the Act of the Parliament of Upper Canada, passed in the seventh year of the Reign of King George the Third, and intituled, *An Act to encourage the progress of useful arts in this Province*, shall be, and the said Acts are hereby repealed;

Proviso.

but all Letters Patent lawfully issued under either of them, shall remain in force and be of the same effect, as if the Act under which it was issued had not been repealed, but subject to the provisions of this Act and to those of the Act cited in the preamble of this Act.

ervations and
t of this Pro-
vince, convey
aid last men-
ars, and shall
renewable for
the eleventh
et: Provided
ned shall be
ts heretofore
vince of Up-
ich the said
ed also, that
section of the
tent shall ex-
o has or shall
section of the
ture or com-
prior to the
nder this Act,
o others to be
osition of mat-
y him, before
e Patentee or
a Letters Pa-
ich section of

to repeal the
Canada respec-
for Inventions,
applicable to
as have been
Act cited in
That the Act
sixth year of
led, *An Act to*
olidate the pro-
ful arts in this
Canada, pass-
ge the Third,
f useful arts in
ebye repealed;
issued under
ce and be of
issued had not
is Act and to

III

III. And be it enacted, That the Letters Patent to be hereafter granted under the Act cited in the preamble to this Act, shall recite briefly the substance of the Petition upon which they are granted, and shall contain a short description of the invention or discovery for which they are granted, referring for a fuller description thereof, and for more ample details, to the specification, and shall grant to the Petitioner, his assigns and legal representatives, for the period of fourteen years from the granting of the same, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said invention or discovery, and such Letters Patent shall, before the same are represented to the Governor for his signature, and before the Great Seal of the Province is thereunto affixed, be examined by Her Majesty's Attorney General or Solicitor General for Upper or Lower Canada, who shall, if he shall find them conformable to law, certify accordingly, and the same shall then be presented to the Governor for his signature, and the Great Seal of the Province shall be thereunto affixed after they have been signed by him, and the same shall be good and available to the Grantee, after they shall have been recorded in a Book to be kept for that purpose in the Office of the Provincial Secretary and Registrar, and shall, when so recorded, be delivered by the proper Officer to the Patentee or his order.

What Letters Patent shall contain, &c.

To be examined by the Law Officers of the Crown.

IV. Provided always, and be it enacted, That any person who shall have discovered an improvement in any machine or composition of matter which shall have been patented, and shall have obtained a Patent for such improvement, shall not be at liberty to make, use, or vend the original invention, but the improvement only; nor shall the first inventor be at liberty to use the improvement: And it is hereby enacted and declared, that simply changing the form or the proportion of any machine or composition in any degree, shall not be deemed a discovery.

As to inventions being improvements on patented inventions.

Proviso.

V. And be it enacted, That every inventor, before he can receive a Patent, shall make a solemn declaration that he does verily believe that he is the true inventor or discoverer of the Art, Machine, or Improvement for which he solicits a Patent (which declaration may be made before any Justice of the Peace,) and shall deliver a written description or specification in duplicate of his Invention or Improvement, and of the manner or process of compounding the same, in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound and use the same; and in the case of any machine,

Inventor to make a solemn declaration that he believes himself to be the inventor, and to file a specification, drawings, &c.

machine, he shall fully explain the principle and the several modes in which he has contemplated the application of that principle or character, by which it may be distinguished from other inventions; and he shall accompany the whole with drawings and written references made in duplicate, where the nature of the case admits of drawings, or with specimens of the ingredients, or of the composition of matter, sufficient in quantity for the purpose of experiment: which description or specification, signed by himself, and attested by two witnesses, shall be filed in the Office of the Secretary of the Province, and certified copies thereof shall be competent evidence in all Courts where any matter or thing touching Patent Right shall come in question; and such inventor shall moreover deliver a model of the machine by him invented, provided the Provincial Secretary shall deem such model to be necessary.

A model may be required.

Patents to be assignable at law.

VI. And be it declared and enacted, That every Patent, whether issued before or after the passing of this Act, is and shall be assignable at law, and that the fifth section of the Act cited in the preamble to this Act does and shall apply, as well to Patents issued before, as after the passing of this Act.

Remedy for infringement of Patent.

VII. And be it enacted, That if any person shall make or manufacture for sale, any article or composition so invented, or shall make or manufacture or make use of any instrument or machinery, so invented or specified, the exclusive right of which shall as aforesaid have been secured to any person by Patent, without the consent of the Patentee, his assigns or other lawful representatives, first obtained in writing, every person infringing such Patent shall be liable to an action for the same, in which, besides such damages as shall be awarded by the Jury, the party injured shall also recover treble costs, to be taxed according to the course and practice of the Court in which the action shall have been brought.

Patent to be void for fraud or wilful misdescription in the specification.

VIII. Provided always, and be it enacted, That if at the trial in any such action, it shall be made apparent, to the satisfaction of the Court, (the defendant having specially pleaded the same) that the specification filed by the Patentee does not contain the whole truth relative to the invention or discovery to which it refers, or that it contains more than is necessary to produce the desired effect, (such concealment or addition fully appearing to have been made for the purpose of deceiving the public) or that the thing thus secured by Patent, was not originally discovered by the Patentee or party claiming to be the Inventor or Discoverer in the specification referred to in the Patent, but

the several
of that prin-
from other
drawings
nature of
the ingredi-
quantity for
specification,
shall be filed
and certified
by the
in que-
r deliver a
d, provided
necessary.

That every
the passing
at the fifth
t does and
the passing

person shall
icle or com-
manufacture
invented or
resaid have
consent of
atives, first
ent shall be
h damages
shall also re-
course and
have been

acted, That
all be made
urt, (the de-
same) that
oes not con-
discovery to
necessary to
dition fully
ceiving the
ot originally
ne Inventor
Patent, but
had

had been in use, or had been described in some public work, anterior to the supposed discovery of the Patentee, or that he had surreptitiously obtained a Patent for the invention or discovery of another person, in either of the said cases, judgment shall be rendered for the defendant with costs, and the Patent shall be declared void.

IX. And be it enacted, That in cases of interfering applications for any Patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Secretary of the Province, or by his Deputy, or person appointed to perform the duty of that office; and the decision or award of such Arbitrators, or any two of them, delivered to the Secretary in writing, and subscribed by them, or any two of them, shall be final, as far as respects the granting of the Patent; and if either of the applicants shall refuse or fail to choose an Arbitrator, when required so to do by the Secretary of the Province, the Patent shall issue to the opposite party; and when there shall be more than two interfering applicants, and the parties applying shall not all unite in appointing three Arbitrators, it shall be in the power of the said Secretary of the Province or his Deputy, or person appointed to perform the duty of that office, to appoint the three Arbitrators for the purposes aforesaid.

How interfering
applications for a
Patent for the
same invention
shall be dealt
with.

X. And be it enacted, That every applicant as aforesaid, presenting a petition and signifying his desire to obtain a Patent pursuant to this Act, and the Act cited in the preamble to this Act, shall pay into the hands of the Secretary of the Province, or his Deputy, or person appointed to perform the duty of that office, the fee of Five Pounds Currency, which shall be in full of all fees due and payable by any such person petitioning for a Patent as aforesaid, with respect to such Patent, and for all services by what Public Officer soever performed, in relation thereto, whether by such Provincial Secretary, or any other: Provided always, that for every copy or exemplification which may be required at the office of said Secretary, of the enrolment of any such Patent, or of the specification or other document relating thereto, the person obtaining such copy shall pay at the rate of One Shilling for every folio of seventy-two words, and further sum of Ten Shillings for affixing the Great Seal to the exemplification of any such Patent; and for every copy of any drawing relating to such Patent, the party entitled to and obtaining the same, shall pay such sum as the Provincial Secretary, or his Deputy, or person performing his duty

Fees to be paid on
obtaining a Pa-
tent.

Proviso as to co-
pies, exemplifica-
tions, drawings,
&c.

duty as aforesaid, shall consider a reasonable compensation for the time and labour expended thereon.

Provisions of this Act extended to travellers bringing inventions from foreign countries.

XI. Provided always, and be it enacted, That the privileges, clauses, provisions, powers and legal remedies intended and mentioned by this Act, which are secured to, imposed upon, and apply to the inventor and discoverer of any new and useful art, machine, manufacture, or composition of matter, for which he or she shall make application for a Patent, shall be construed to extend to and to include, and are hereby declared to extend to and include any subject of Her Majesty, being an inhabitant of this Province, who shall in his or her travels in any foreign country have discovered or obtained a knowledge of, and be desirous of introducing in this Province, any new and useful art, machine, manufacture, or composition of matter, not known or not in use in this Province, before his or her application for the same:

Proviso.

Provided nevertheless, that nothing, herein contained shall extend to inventions or discoveries of any new and useful art, machine, manufacture, or composition of matter, made, discovered or used in the United States of America, or in any part of Her Majesty's Dominions, in Europe or America, or be construed to prevent the free importation thereof into this Province, for sale, by any person or persons, or for their use or otherwise, from the United States or Her Majesty's said Dominions.

Proviso: such person to make a solemn declaration that he believes himself to be the first introducer.

XII. Provided always, and be it enacted, That such person so desirous of introducing into this Province any invention, art, machine, manufacture, or composition of matter, which he or she shall have discovered or obtained a knowledge of in any foreign country, shall, previous to obtaining a Patent for the same, in the manner prescribed in this Act as to inventors and discoverers, make a solemn declaration, that he or she believes himself or herself to be the first introducer or publisher of such invention, art, machine, manufacture, or composition of matter, in this Province, and that he discovered or obtained a knowledge thereof while on his travels in some foreign country, not being one of the United States of America, or any of Her Majesty's Dominions in Europe or America.

Act cited in the Preamble to apply to Patents under this Act.

XIII. And be it enacted, That all the provisions and enactments of the Act cited in the preamble to this Act, shall apply to Patents issued under this Act, as fully and effectually as to Patents issued under either of the Acts hereby repealed, and the said Act shall, with regard to Patents to be issued hereafter, be construed and have effect as if this Act were referred to in the said Act

where
hereb
vision
to the
issued
Letter
Provid
thereo
shall b

DISC

AN ACT

W
dispose
fore ena
become
ing for
of any
person,
respons
the Sec
bility o
the expi
notices
give the
and dep
doing, sh
Employ
security
and subj
the Act
and fifth
ninety-o
rities in
and for
security
such Offi

See Secti

d, That
ers and
by this
on, and
eful art,
ch he or
rued to
d to and
t of this
n coun-
desirous
achine,
t in use
e same:
in con-
ew and
position
e United
inions,
e impor-
erson or
ates or

d, That
into this
anufac-
e or she
ledge of
tent for
inventors
e or she
ublisher
osition of
ained a
country,
of Her

e provi-
in the
ts issued
ts issued
act shall
ued and
aid Act
wherever

wherever reference is therein made to the Acts hereby repealed or either of them; and the provisions of this Act relative to matters subsequent to the issuing of any Letters Patent, shall apply to Letters Patent issued under either of the Acts hereby repealed, as fully as to Letters Patent issuing after the passing hereof: Provided always, that the words "or the principle thereof," in the first section of the Act cited in the Preamble, shall be and are hereby repealed.

And this Act to
Patents obtained
under either of
the said Acts.

Proviso.

DISCHARGE OF SURETIES FOR PUBLIC OFFICERS.

C A P. L X X X.

AN ACT TO PROVIDE FOR THE DISCHARGE OF SURETIES FOR PUBLIC OFFICERS IN CERTAIN CASES.

[Assented to, 30th August, 1851.]

WHEREAS it is expedient to provide for the Discharge of Sureties for Public Officers, when no longer disposed to continue to incur responsibility as such: Be it therefore enacted, &c., That when any person shall have become Surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty, it shall be lawful for such person, when no longer disposed to continue such responsibility, to give notice thereof to his Principal, and also to the Secretary of the Province, and that all accruing responsibility on the part of such person as such Surety, shall cease at the expiration of one month from the receipt of the last of such notices; and the Principal shall, within that period give the security of another Surety, and register and deposit the Bond of such new Surety, or in default of so doing, shall forfeit and be deprived of the Appointment, Office, Employment or Commission, in respect whereof such new security ought to have been given, in like manner, and under and subject to like provisions as are set forth and contained in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, chaptered ninety-one, and intituled, *An Act to regulate the taking of Secu- rities in all Offices in respect of which security ought to be given, and for avoiding the grant of all such Offices, in the event of such security not being given within the time limited after the grant of such Office.*

Preamble.

How sureties of
Public Officers
may relieve them-
selves from fur-
ther responsibil-
ity.

New sureties to
be found.

Act 4 & 5 Vict. c.
91.

See Section 3 of 16 Vic., Cap. 87, on page 444 in this work.

OFFICIAL SECURITIES ACT, (AMENDMENT.)

CAP. LXXXVII.

AN ACT TO AMEND THE ACT TO REGULATE THE TAKING OF SECURITIES.

[Assented to, 22d April, 1853.]

Preamble.

WHEREAS it is expedient to amend the Act passed in the session of the Provincial Parliament, held in the fourth and fifth years of Her Majesty's Reign, intituled, *An Act to regulate the taking of securities in all offices in respect of which security ought to be given, and for avoiding the grant of all such offices in the event of such security not being given within a time limited after the grant of such office*, with regard to the provisions of the said Act for avoiding the grant of public offices as aforesaid: Be it therefore enacted, &c., That from and after the passing of this Act, no office whatever shall be avoided nor shall be deemed to be avoided by the non-compliance with any of the provisions of the said Act, until the Governor or person administering the Government of this Province shall have declared the same to be avoided; any thing to the contrary in the said Act contained notwithstanding.

Governor may approve security given after the time required by law, but before the passing of this Act.

II. And be it enacted, That it shall be lawful for the Governor or person administering the Government of this Province, by order in Council, to approve and confirm the security given and entered into by, for or on account of any public officer previous to the passing of this Act, or within two months after the passing of this Act, although the same shall have been entered into after the time limited in the said Act; and the provisions of the said Act as to the avoiding of offices shall be deemed not to apply nor to have applied to any such public office, and the commission and tenure of any such office shall remain and shall be deemed to have remained in full force and effect, any thing to the contrary in the said Act contained notwithstanding; Provided always, that any security entered into approved and confirmed as aforesaid shall be deposited and registered in the manner and form provided for by the said Act, and the delay for depositing and registering the same shall be computed from the date of the Order in Council approving the same.

Proviso.

III.
other
office
affida
for the
this P
filed
been,
by la
public
remain
any th

IV.
public
been g
affidav
time li
or deer
the con

JOIN

AN ACT T
COM
CAL

WH
panies d
tration t
qualities
ditions a
five or m
Company
of Manu
chanical
sign a s
which sh

the Act
provincial
Majesty's
ing of sec-
security
ch offices
e limited
as of the
id: Be it
after the
shall be
ed by the
Act, until
this Pro-
thing to

be lawful
the Gov-
ouncil, to
nd enter-
ic officer
ths after
been en-
the pro-
shall be
lic office,
ll remain
nd effect,
ithstand-
y entered
osited and
said Act,
e shall be
oving the

III. And be it enacted, That whenever by any other Act now in force in this province, any public officer was, is or shall be required to give security, or to file an affidavit of qualification within a limited time, it shall be lawful for the Governor or person administering the Government of this Province, to approve of the security given, or of the affidavit filed by any such public officer, although the same may have been, or shall have been given or filed after the time limited by law, and in such case the office or commission of any such public officer shall be deemed not to have been avoided, but shall remain and be deemed to have remained in full force and effect; any thing to the contrary in said Act notwithstanding.

And so of affi-
davits of suffi-
ciency.

IV. And be it enacted, That no act of any public officer whose security may or shall have been given, or registered or deposited, or whose affidavit of qualification may or shall have been filed after the time limited by law, shall by such defect be void or voidable, or deemed to be void or voidable; any law, usage or custom to the contrary notwithstanding.

Offices not to be
vacated in such
cases.

JOINT STOCK COMPANIES, MANUFACTURING, ETC.

C A P. XXVIII.

AN ACT TO PROVIDE FOR THE FORMATION OF INCORPORATED JOINT STOCK COMPANIES, FOR MANUFACTURING, MINING, MECHANICAL OR CHEMICAL PURPOSES.

[Assented to, 10th August, 1850.]

WHEREAS it is expedient to make provision for the Registration of Joint Stock Companies during the formation thereof, and also after such registration to invest such Joint Stock Companies with some of the qualities and incidents of Corporations, subject to certain conditions and regulations: Be it therefore enacted, &c., That any five or more persons who may desire to form a Company for the purpose of carrying on any kind of Manufacturing, Ship Building, Mining, Mechanical or Chemical Business, may make and sign a statement or declaration in writing, in which shall be set forth the Corporate name of the said Company

Preamble.

Statement or
declaration of
formation and
purposes of Joint
Stock Company
to be registered,
and where.

pany, and the object or objects for which the same shall be formed, the amount of the Capital Stock of the said Company, the term of its proposed existence, (which shall not exceed fifty years) the number of shares of which the said stock shall consist, the number and names of the Trustees who shall manage the concerns of the said Company for the first year, and the names of the City, Town or Village, Parish, Township or Extra-parochial Place and County in which the operations of the said Company are to be carried on, and shall acknowledge such statement or declaration in duplicate before the Registrar or Register of such County or his Deputy, who are hereby authorized to receive such acknowledgment, and grant certificate thereof; and one of the duplicates of every such statement or declaration shall be filed by such Registrar or Register, or his Deputy, and an entry thereof shall be made by him in a book to be kept for that purpose, and the other of the said duplicates, with a proper certificate of the acknowledgment, filing and registration thereof as aforesaid endorsed thereon, shall forthwith be transmitted to and filed in the Office of the Secretary of this Province.

II. And be it enacted, That when the formalities prescribed in the foregoing section of this Act shall have been complied with, the persons who shall have signed the said statement or declaration, and their successors, shall be a body politic and corporate in fact and in name by the name mentioned in such statement or declaration; and by that name shall have succession, and shall be capable of suing and being sued in any Court of Law or Equity in this Province, and may have a common seal, and may from time to time break, alter and make new the same at pleasure; and they shall by their said corporate name be able and capable in law to purchase, hold and convey any real and personal estate, or moveable and immoveable property whatsoever which may be necessary to enable the said Company to carry on the operations mentioned in such statement or declaration, but shall not mortgage the same nor give any lien thereon.

After such registration Company to be incorporated.
Company not to grant mortgages.

Certified copy of Statement to be prima facie evidence of its contents.

III. And be it enacted, That a copy of any such statement or declaration as aforesaid, registered, in pursuance of this Act, certified by the County Registrar or Register or his Deputy to be a true copy, and of the whole of such statement or declaration shall be received in all Courts and places as *prima facie* evidence of the facts therein stated; and the compliance with the formalities prescribed in the first section of this Act shall be conclusively established by the insertion in the *Canada Gazette*, of a notice to

that eff
Provinc

IV. A
and com
shall be
than ni
Stockho
either b
year, be
place as
notice o
publishe
paper pr
said Com
made by
pose eith

V. An
be by ba
titled to
Company
votes sha
among th
be filled
be provi

VI. An
at any ti
such Com
the day w
Company
not for th
Stockhold
any other
By-laws,
said shall
their succ

VII. An
pany as a
sident, wh
among the
Company
appointed,
formance
pany by it

VIII. A
for the Tru
and deman

that effect, proceeding from the office of the Secretary of the Province.

IV. And be it enacted, That the Stock, property and concern of every such Company as aforesaid shall be managed by not less than three, or more than nine Trustees, who shall respectively be Stockholders in such Company, and subjects of Her Majesty, either by birth or naturalization, and who shall, except the first year, be annually elected by the Stockholders at such time and place as shall be directed by the By-laws of the Company; and notice of the time and place of holding such election shall be published not less than ten days previous thereto, in the newspaper printed nearest to the place where the operations of the said Company shall be carried on; and the election shall be made by such of the Stockholders as shall attend for that purpose either in person or by proxy.

Election of Trustees after the first year provided for.

V. And be it enacted, That all elections shall be by ballot, and each Stockholder shall be entitled to as many votes as he owns shares of stock in the said Company; and the persons receiving the greatest number of votes shall be Trustees; and when any vacancy shall happen among the Trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the By-laws of the said Company.

All Elections to be by ballot.

VI. And be it enacted, That if it shall happen at any time that an election of Trustees of any such Company as aforesaid shall not be made on the day when, according to the By-laws of such Company, it ought to be made, such Company shall not for that reason be dissolved; but it shall be lawful for the Stockholders of such Company to hold an election of Trustees on any other day in such manner as shall be provided for by such By-laws, and all acts of Trustees of any such Company as aforesaid shall be valid and binding as against such Company until their successors shall be elected.

Corporation not to be dissolved by failure to elect Trustees on stated day.

VII. And be it enacted, That every such Company as aforesaid shall have a Chairman or President, who shall be elected by the Trustees from among themselves, and also such subordinate officers as the Company by its By-laws may require, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their respective offices as the Company by its By-laws may provide.

Every Company to have Chairman and Officers.

VIII. And be it enacted, That it shall be lawful for the Trustees of any such Company to call in and demand from the Stockholders thereof respec-

Trustees may call in Stock subscribed by instalments.

tively.

tively, all sums of money by them subscribed, at such times and in such payments or instalments as such Trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the Stockholders respectively within sixty days after a personal demand, or after notice requiring such payment shall have been published for six successive weeks in the newspaper nearest the place where the business of the Company shall be carried on as aforesaid.

Trustees may
make By-laws.

IX. And be it enacted, That the Trustees of every such Company as aforesaid shall have power to make such By-laws as they shall deem proper for the management and disposition of the stock and business affairs of such company, for the appointment of officers, and for prescribing their duties and those of all artificers and servants that may be employed, and for carrying on all kinds of business within the objects and purposes of such company; and any copy of the said By-laws or any of them purporting to be under the hand of the Clerk, Secretary or other officer of the said company, and having the corporate seal of such Company affixed to it, shall be received as *prima facie* evidence of such By-law or By-laws in all Courts of Law or Equity in this Province.

Stock to be
deemed Personal
Estate, and how
transferable.

X. And be it enacted, That the Stock of every such Company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the By-laws of the Company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon; and it shall not be lawful for any such company to use any of its funds in the purchase of any Stock in any other Corporation.

Liability of
Stockholders
before and after
payment of
Capital.

XI. And be it enacted, That all the Stockholders of any Company that shall be incorporated under this Act shall be jointly and severally liable for all debts and contracts made by such Company, until the whole amount of the capital stock of such Company, fixed and limited in manner aforesaid, shall have been paid in, and a certificate to that effect shall have been made and registered as prescribed in the next section of this Act, after which no Stockholder of such Company shall be in any manner whatsoever liable for or charged with the payment of any debt or demand due by such Company, beyond the amount of his share or shares in the capital stock of such Company so fixed and limited and paid in as aforesaid, save and except as hereinafter mentioned:

Provido: name,
style and Capital

Provided always that for the greater security of persons dealing with any such Company as aforesaid,
said,

said, every
part of e
of such
carried a
letters a
proportion
pany as
name, st
at least
document
Order, E
document
Officer o
said Com
personally
promise o
any time
shall not
said, or b
of which t
hereby rec

XII. And
after the
Capital St
limited as
drawn up
Certificate
majority o
man or Pr
days in th
of the said
of such Co
the said o
the book to
mentioned;
paid in, one
thereof wit
Company, o

XIII. And
pany shall a
first of Janu
inserted in s
the business
amount of
thereof then
existing debt
the Chairma

said, every such Company shall, in some conspicuous part of every building or place whereat the business of such Company or any part thereof shall be carried on, cause to be constantly inscribed in plain and distinct letters and figures of at least one half-inch in length and of proportionate breadth, as well the name and style of the Company as the amount of the Capital Stock thereof; and that such name, style and Capital shall also be written or printed in letters at least as large and distinct as any other used in the same document at the head of every Promissory Note, Draft, Check, Order, Bond, Contract, Agreement, Bill of Parcels or other document purporting to be made or signed by any Trustee or Officer of the Company, or in any way to bind or oblige the said Company; and the Trustees of any such Company shall be personally and jointly and severally liable for every contract, promise or engagement made in the name of the Company at any time when such name, style and amount of Capital Stock shall not be so inscribed as aforesaid at any such place as aforesaid, or by virtue of any such document as aforesaid, at the head of which the same shall not be written or printed in the manner hereby required.

of the Company
to appear in all
Bills, Notes, &c.,
of the Company.

XII. And be it enacted, That within thirty days after the payment of the last instalment of the Capital Stock of any such Company so fixed and limited as aforesaid, there shall be made and drawn up a Certificate to that effect, which Certificate shall be signed and sworn to by a majority of the Trustees of such Company, including the Chairman or President, and shall be registered within the said thirty days in the Registry Office of the County wherein the business of the said Company is carried on, and the Registrar or Register of such County or his Deputy is hereby authorized to administer the said oath, and to enter and register the said Certificate in the book to be kept by him for the purposes of this Act as already mentioned; and such Capital Stock so fixed and limited, shall be paid in, one half thereof within one year, and the other half thereof within two years from the incorporation of the said Company, or such Corporation shall be dissolved.

Certificate of
payment of
Capital Stock to
be registered
within thirty
days after the
payment of the
last instalment.

XIII. And be it enacted, That every such Company shall annually, within twenty days from the first of January, make a report which shall be inserted in some newspaper published nearest to the place where the business of such Company shall be carried on, stating the amount of the Capital of such Company and the proportion thereof then actually paid in, together with the amount of the existing debts of such Company; which report shall be signed by the Chairman or President and a majority of the Trustees of

Annual Report of
Affairs of each
Company to be
published.

such Company, and shall be verified by the oath of the said Chairman or President or of the Secretary of the said Company, and shall be entered and registered as aforesaid in the Registry Office of the County where the business of the Company shall be carried on; and all the Trustees of any Company failing to comply with the requirements of this section shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be contracted until such report shall be made.

Liability of Trustees paying dividend under certain circumstances.

XIV. And be it enacted, That if the Trustees of any such Company shall declare and pay any dividend when the Company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the Company then existing and for all that shall be thereafter contracted, while they shall respectively continue in office:

Provido.

Provided always, that if any of such Trustees shall object to the declaring of such dividend or to the payment of the same, and shall at any time before the time fixed for the payment thereof, file a written statement of such objection in the office of the Secretary of the Company, and also in the Registry Office of the County, such Trustee or Trustees shall be exempt from such liability.

Loans of money by Company to its Stockholders prohibited.

XV. And be it enacted, That no loan of money shall be made by any such Company to any Stockholder therein; and if any such loan shall be made to a Stockholder, the officer or officers who shall make it or who shall assent thereto, shall be jointly and severally liable to the extent of such loan, with legal interest thereon, for all the debts of the Company that may be contracted before the re-payment of the sum so loaned.

Officers liable jointly and severally for debts of Company in certain cases.

XVI. And be it enacted, That if any certificate or report made, or public notice given by the officers of any such Company in pursuance of the provisions of this Act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the Company contracted while they are officers or Stockholders thereof, respectively: and if the indebtedness of any such Company shall at any time exceed the amount of its capital stock, the Trustees of such Company assenting thereto shall be personally and individually liable for such excess to the creditors of such Company,

Stockholders to be liable indi-

XVII. And be it enacted, That the Stockholders of every such Company shall be jointly and severally

severally
be due a
servants
formed f
no Stock
any other
is impos
debt con
within o
a suit fo
such Com
and no s
cease to
contract
years fro
in such C
shall hav

XVIII.

ing Stock
Administ
shall be p
holder of
of such
Trustee,
the Test
person, o
were livi
own nam
security s
of such C
consider
holder ac

XIX.

ecutor, A
Trustee,
hands at
vote acc
person w
represent
ingly as
ecutor, A
shall be a
pany; an
void.

XX. A
duty of th
cause a b

severally individually liable for all debts that may be due and owing to all or any of the labourers, servants and apprentices thereof, for services performed for such Company; Provided always, that no Stockholder shall be personally liable in this or any other of the cases in which personal liability is imposed by the provisions of this Act, for the payment of any debt contracted by any such Company which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such Company within one year after the debt shall become due; and no suit shall be brought against any Stockholder who shall cease to be a Stockholder in any such Company for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a Stockholder in such Company, nor until an execution against the Company shall have been returned unsatisfied in whole or in part.

vidually for debts
to servants,
labourers, &c.

Provide: limita-
tion of actions on
such liability.

XVIII. And be it enacted, That no person holding Stock in any such Company as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be personally subject to any liability as Stockholder of such Company; but the estates and funds in the hands of such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be liable in like manner and to the same extent as the Testator or Intestate, or the Minor, Ward or interdicted person, or the person interested in such trust fund would be if he were living and competent to act, and held the same stock in his own name; and that no person holding such stock as collateral security shall be personally subject to any liability as Stockholder of such Company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a Shareholder accordingly.

Executors, &c.,
not to be subject
to any personal
liability as
Stockholders.

XIX. And be it enacted, That every such Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall represent the shares of stock in his hands at all meetings of the Company, and may vote accordingly as a Stockholder; and every person who shall pledge his stock as aforesaid, may nevertheless represent the same at all such meetings, and may vote accordingly as a Stockholder; but no person holding stock as Executor, Administrator, Tutor, Curator, Guardian or Trustee, shall be a Trustee or hold any office in the service of such Company; and all votes given to them or either of them shall be void.

Executors, &c.,
allowed to repre-
sent Stock in
their hands, and
vote at Elections,
but not to be
elected.

XX. And be it enacted, That it shall be the duty of the Trustees of every such Company to cause a book to be kept by the Treasurer or Clerk

Trustees to keep
a book contain-
ing names of
Stockholders,

thereof

Ac., for inspection.

thereof containing in alphabetical order the names of all persons who are or have been Stockholders of such Company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became owners of such shares; and also a statement of all the existing debts and liabilities of such Company, and of the amount of its stock actually paid in; which books shall, during the usual business hours of the day, on every day except Sundays and obligatory holidays (*fêtes d'obligation*), be open for the inspection of Stockholders and creditors of the Company and their personal representatives, at the office or principal place of business of such Company, in the County where the operations of such Company are carried on as aforesaid: and any and every such Stockholder, Creditor or Representative, shall have a right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the Company according to the provisions of this Act, until it shall have been entered therein as required by this section by an entry showing to and from whom such stock shall have been transferred.

Such book to be *prima facie* evidence of the facts therein stated.

Stockholders; and that every Officer or Agent of any such Company who shall refuse or neglect to make any proper entry in such book, or to exhibit the same or allow the same to be inspected, and extracts to be taken therefrom as aforesaid, shall be guilty of misdemeanor, and being convicted thereof shall be punished accordingly; and every Company that shall neglect to keep such book open for inspection as aforesaid, shall forfeit the corporate rights, character and privileges acquired by it in pursuance of this Act.

Interpretation of certain words.

XXII. And be it enacted, That the word "Company," wherever it occurs in this Act, shall be construed to mean a Joint Stock Company incorporated by registration under the provisions of this Act; and all words importing the singular number or the masculine gender only shall be construed to the plural number, and to females as well as males, unless there be something in the context inconsistent with such construction.

Right to repeal or amend Act reserved.

XXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this or any other Session of the Parliament of this Province; but such amendment or repeal shall not, nor shall the consequent

consequ
under t
any suc
which s

JOINT

AN ACT TO
STOCK

WH
Parliame
years of
to provid
nies for
poses, an
enacted,
and all a
ed by thi
Compani
tioned, f
Houses, a
and that
the Capit
the mann
may be p
years from
such annu
mentioned
be filed in

II. Prov
notwithsta
Act conta
holder, at
poration, a
pay up his
certificate
by the said

consequent dissolution of any Corporation formed or created under this Act, take away or impair any remedy given against any such Corporation, its Stockholders or officers for any liability which shall have been previously incurred.

JOINT STOCK COMPANIES AMENDMENT ACT.

CAP. CLXXII.

AN ACT TO AMEND THE ACT FOR THE FORMATION OF INCORPORATED JOINT STOCK COMPANIES FOR MANUFACTURING, AND OTHER PURPOSES

[Assented to, 14th June, 1853.]

WHEREAS it is expedient to amend the Act passed in the Session of the Provincial Parliament held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to provide for the formation of incorporated Joint Stock Companies for Manufacturing, Mining, Mechanical or Chemical purposes*, and to extend the same to other purposes: Be it therefore enacted, &c., That the Act cited in the preamble to this Act, and all and every the provisions thereof as amended by this Act, shall apply and have effect for all Companies which shall be formed as therein mentioned, for the erection of Public Hotels or Baths and Bath Houses, and the opening and using of Salt or Mineral Springs; and that notwithstanding any thing in the said Act contained, the Capital Stock of any such Company fixed and limited in the manner provided by the said Act, shall and may be paid in within a period not exceeding five years from the incorporation of the Company, by such annual instalments and in such proportions as shall be mentioned in the statement or declaration in writing required to be filed in the Office of the Secretary of the Province.

Preamble.

13 & 14 Vic. cap. 28.

Act extended to Companies for certain purposes.

Period for paying in Stock extended.

Shareholders may at any time pay their stock in full: effect of such payment.

II. Provided always, and be it enacted, That notwithstanding any thing in the said first cited Act contained, it shall be lawful for any shareholder, at any time from and after the said incorporation, and within the said period of five years therefrom, to pay up his full Shares in the Company, to the effect whereof a certificate shall be made and registered in the manner provided by the said first cited Act, and which as to such Shareholder

and his liability in virtue of the said Act, shall have the same force and effect from the making thereof, as the making and registering of the certificate of the payment of the whole amount of the Capital of such Company.

Provision as to registration in case the operations of the Company be carried on at more than one place.

III. And be it enacted. That where it shall be declared in the statement or declaration in duplicate required to be made by the first cited Act, that the chief-place of business of the said company is established in any City, Town, Village, Parish, Township, Place and County in which a Registry Office, is situate, and the operations of the said Company shall be carried on elsewhere in this Province, it shall be lawful and sufficient for the said persons forming the Company to acknowledge the said duplicate, statements or declarations before the Registrar of such City, Town, Village, Parish, Township, Place or County, or his Deputy as required by the said first cited Act, and a copy of such statement or declaration, with the Certificate of the Registrar thereon, and signed by the Registrar, shall be filed by the Registrar, if such there be at the place where such operations are carried on, and shall be of like force and effect as if the personal acknowledgment by such persons of the said Statement or Declaration had been made at the place where the said operations shall be carried on; any thing in any law to the contrary notwithstanding.

PROTECTION OF MERCHANTS AND OTHERS, (C. E. & W.)

C A P. X.

AN ACT FOR THE BETTER PROTECTION OF MERCHANTS AND OTHERS WHO MAY HEREAFTER RECEIVE ASSIGNMENTS AND ENTER INTO CONTRACTS AND AGREEMENTS IN RELATION TO GOODS AND MERCHANTIZE ENTRUSTED TO AGENTS, CANADA EAST AND WEST.

[Assented to, 24th July, 1847.]

Preamble.

WHEREAS it is expedient to afford better protection to Merchants and others who may hereafter enter into Contracts or Agreements in relation to goods, wares and merchandize entrusted to Factors and Agents; and whereas advances on the security of goods and merchandize have become an usual and ordinary course of business, and it is advisable and necessary that reasonable and safe facilities should be afforded thereto: Be it therefore enacted, &c., That from

10 & 11
and af
be law
agent
possess
the sam
any su
the sam
and su
against
ing suc
enterin
made o
II. A
who sh
goods a
title to
and tak
chandiz
sale or
tioned,
such go
respect
vanced
use of s
curity r
manner
true ow
validity
lien or s
entruste
payment
or docum
respect
shall be
of such
sons int
son claim
person w
an agent
III. A
contract
curity sh
livery or
or merch
security,
the same
for or in

and after the passing of this Act, it shall and may be lawful for any person to contract with any agent who shall thereafter be entrusted with the possession of any goods or merchandize or to whom the same may be consigned, for the purchase of any such goods or merchandize, and to receive the same of and pay for the same to such agent, and such contract and payment shall be binding upon and good against the owner of such goods and merchandize notwithstanding such person shall have notice that the person making and entering into such contract or on whose behalf such contract is made or entered into is only an Agent.

Contracts for the sale of goods made with agents entrusted with the possession thereof to be valid, although the purchaser may know the seller to be only an agent.

II. And be it enacted, That any such agent who shall be entrusted with the possession of goods and merchandize or of the documents of title to goods and merchandize shall be deemed and taken to be the owner of such goods and merchandize and documents for the purposes of such sale or contract of sale as in the first clause mentioned, and also so as to entitle the consignee of such goods and merchandize to a lien thereon in respect of any money or negotiable security advanced or given by such consignee to and for the use of such agent, or in respect of any money or negotiable security received by him to the use of such consignee in the like manner to all intents and purposes, as if such person was the true owner of such goods and merchandize, and so far as to give validity to any contract or agreement by way of pledge (*gage*) lien or security *bond fide* made by any person with such agent so entrusted as aforesaid, as well for any original loan, advance or payment made upon the security of such goods and merchandize or documents, as also for any further or continuing advance in respect thereof, and such contract or agreement shall be binding upon and good against the owner of such goods and merchandize, and all other persons interested therein, notwithstanding the person claiming such pledge or lien may have had notice that the person with whom such contract or agreement is made is only an agent.

Agents to be deemed the owners of goods entrusted to them, for the purpose mentioned in the section one, and so as to entitle a consignee hereof to a lien for monies, &c., advanced to the agent; and also so as to make valid contracts of pledge.

Contracts of pledge. Notice ownership not to affect such contracts.

III. And be it enacted, That where any such contract or agreement for pledge (*gage*) lien or security shall be made in consideration of the delivery or transfer to such agent of any other goods or merchandize or document of title or negotiable security, upon which the person so delivering up the same had at the time a valid and available lien and security for or in respect of a previous advance by virtue of some contract

Case where the pledge or lien shall be in consideration of the delivery of other goods, &c., on which the party delivering them hath a lien, provided for.

tract or agreement made with such agent, such contract and agreement, if *bonâ fide* on the part of the person with whom the same may be made, shall be deemed to be a contract made in consideration of an advance within the true intent and meaning of this Act, and shall be as valid and effectual to all intents and purposes and to the same extent as if the consideration for the same had been a *bonâ fide* present advance of money: Provided always, that the lien acquired under such last mentioned contract or agreement upon the goods or documents deposited in exchange, shall not exceed the value at the time of the goods and merchandize which, or the documents of title to which, or the negotiable security which shall be delivered up and exchanged.

Provided as to amount of lien in such case.

Act not to extend to cases when the party advancing, &c., has notice that the agent has no power to pledge, or is acting *malâ fide*.

IV. Provided always, and be it enacted, That this Act and every matter and thing herein contained shall be deemed and construed to give validity to such contracts and agreements only as in this Act mentioned and to protect only such loans, advances and exchanges as shall be made *bonâ fide* and without notice that the agent making such contracts and agreements as aforesaid has no authority to make the same or is acting *malâ fide* in respect thereof against the owner of such goods and merchandize; and nothing herein contained shall be construed to extend to or protect any lien (*gage*) or pledge for or in respect of any antecedent debt owing from any agent to any person with or to whom such lien (*gage*) or pledge shall be given, nor to authorize any agent entrusted as aforesaid, in deviating from any express orders or authority received from the owner; but that for the purpose and to the intent of protecting all such *bonâ fide* loans, advances and exchanges as aforesaid, (though made with notice of such agent not being the owner, but without any notice of the agent's acting without authority,) and to no further or other intent shall the owner and all other persons interested in such goods and merchandize be bound.

What shall be deemed documents of title.

V. And be it enacted, That any bill of lading, warehouse-keeper's or wharfinger's receipt or order for delivery of goods, or any bill of inspection of pot or pearl ashes, or any other document used in the ordinary course of business, as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery the possessor of such document to transfer or receive goods thereby represented, shall be deemed and taken to be a document of title within the meaning of this

Agent possessed of such document

Act; and any agent entrusted as aforesaid and possessed of any such document of title, whether derived

contract and
in whom the
act made in
and meaning
intentions and
ation for the
y: Provided
uch last men-
the goods or
shall not ex-
ndize which,
ble security

acted, That
herein con-
to give vali-
s only as in
y such loans,
e made *bond*
making such
rity to make
against the
ize; and no-
trued to ex-
pledge for
ng from any
n such lien
ny agent en-
orders or au-
that for the
all such *bond*
as aforesaid,
the owner,
at authority,)
nd all other
be bound.

bill of lading,
s receipt or
ll of inspec-
ument used
possession or
thorize either
ch document
ll be deemed
eaning of this
aforesaid and
itle, whether
derived

derived immediately from the owner of such goods and merchandize or obtained by reason of such agent's having been entrusted with the possession of the goods and merchandize or of any other document of title thereto, shall be deemed and taken to have been entrusted with the possession of the goods and merchandize represented by such document of title as aforesaid; and all contracts pledging or giving a lien upon such document of title as aforesaid shall be deemed and taken to be respectively pledges (*gages*) of and lien upon the goods and merchandize to which the same relates, and such agent shall be deemed to be possessor of such goods and merchandize or documents of title whether the same shall be in his actual custody or shall be held by any other person subject to his control or for him or on his behalf; and when any loan or advance shall be *bond fide* made to any agent entrusted with and in possession of any such goods and merchandize or documents of title as aforesaid on the faith of any contract or agreement in writing to consign, deposit, transfer or deliver such goods and merchandize or documents of title as aforesaid, and such goods and merchandize or documents of title shall actually be received by the person making such loan or advance, without notice that such agent was not authorized to make such pledge or security, every such loan or advance shall be deemed and taken to be a loan or advance upon the security of such goods and merchandize or documents of title, within the meaning of this Act, though such goods and merchandize or documents of title shall not actually be received by the person making such loan or advance till the period subsequent thereto: and any contract or agreement whether made direct with such agent as aforesaid or with any clerk or other person on his behalf shall be deemed a contract or agreement with such agent; and any payments made whether by money or bills of exchange or other negotiable security shall be deemed and taken to be an advance within the meaning of this Act; and an agent in possession as aforesaid of such goods and merchandize or documents shall be taken for the purposes of this Act to have been entrusted therewith by the owner thereof, unless the contrary be shewn in evidence.

to be deemed in possession of the goods to which it relates.

Pledging of such documents to be a pledging of the goods.

Also contracts to deliver, &c., such goods or documents, if the same be afterwards received without notice of non-authority of Agent.

Contracts with the Clerk and with the Agent.

Payments in bills of exchange &c.

Possession of Agent to be deemed with consent of owner, unless the contrary be shewn.

Act not to impair the responsibility of the Agent to his principal.

VI. Provided always, and be it enacted, That nothing herein contained shall lessen, vary, alter or affect the civil responsibility of an agent for any breach of duty or contract or non-fulfilment of his orders or authority, in respect of any such contract, agreement, lien or pledge (*gage*) as aforesaid.

Agent pledging goods, &c., for his own benefit, in bad faith and contrary to instructions, to be guilty of a misdemeanor.

Punishment for such offence.

The like of any Clerk aiding or abetting in such offence.

Proviso : Agent not liable to prosecution for pledging goods to an amount not exceeding that due him by the owner.

Proviso : Conviction not to be evidence against Agent in any civil proceedings.

Agent not liable to be convicted, after having disclosed the act on oath in certain civil proceedings.

VII. Provided always, and be it enacted, That if any Agent entrusted as aforesaid shall, contrary to, or without the authority of his principal in that behalf, for his own benefit and in violation of good faith, make any consignment, deposit, transfer or delivery of any goods and merchandize or documents of title so entrusted to him as aforesaid, as and by way of a pledge, (*gage*) lien and security, or shall, contrary to or without such authority, for his own benefit and in violation of good faith, accept any advance on the faith of any contract or agreement to consign, deposit, transfer or deliver such goods and merchandize or documents of title as aforesaid, every such agent shall be deemed guilty of a misdemeanor, and being convicted thereof shall be sentenced to suffer such punishment by fine or imprisonment in the Common Gaol for any term not exceeding two years, or by both as the Court having jurisdiction in such cases shall award ; and every clerk or other person who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer or delivery, or in accepting or procuring such advance as aforesaid, shall be deemed guilty of a misdemeanor, and being convicted thereof shall be liable at the discretion of such Court to any of the punishments which such Court shall award as hereinbefore last mentioned : Provided nevertheless, that no such agent shall be liable to any prosecution for consigning, depositing, transferring or delivering any such goods and merchandize or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, deposit, transfer or delivery, was justly due and owing to such agent from his principal together with the amount of any bills of exchange drawn by or on account of such principal, and accepted by such agent : Provided also, that the conviction of any such agent so convicted as aforesaid, shall not be received in evidence in any action at law or suit in equity against him ; and no agent entrusted as aforesaid shall be liable to be convicted by any evidence whatsoever in respect of any act done by him, if he shall at any time previously to his being indicted for such offence, have disclosed such act on oath, in consequence of any compulsory process of any Court of Law, Equity, or Admiralty, in any action, suit or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any Commissioner of Bankrupts.

VIII.

nacted, That
shall, contra-
his principal
in violation
ent, deposit,
or documents
by way of a
o or without
of good faith,
agreement to
merchandize
ent shall be
d being con-
o suffer such
on Gaol for
as the Court
shall award ;
o shall know-
making any
or in accept-
l be deemed
proof shall be
punishments
mentioned :
a agent shall
signing, depo-
y such goods
title, in case
y for or sub-
ney than the
deposit, trans-
n agent from
bills of ex-
d, and accept-
that the con-
ted as afore-
ee in any ac-
him ; and no
e liable to be
er in respect
at any time
such offence,
consequence
, Equity, or
h shall have
or if he shall
osition before

VIII. Provided always, and be it enacted, That nothing herein contained shall prevent such owner as aforesaid from having the right to redeem such goods and merchandize or documents of title pledged as aforesaid, at any time before such goods and merchandize shall have been sold, upon repayment of the amount of the lien thereon or restoration of the securities in respect of which such lien may exist, and upon payment or satisfaction to such agent, if by him required, of any sum of money for or in respect of which such agent would by law be entitled to retain the same goods, merchandize or documents, or any of them, by way of lien as against such owner ; or to prevent the said owner from recovering of and from such person with whom any such goods and merchandize or documents may have been pledged, or who shall have any such lien thereon as aforesaid, any balance or sum of money remaining in his hands as the produce of the sale of such goods and merchandize after deducting the amount of the lien of such person under such contract or agreement as aforesaid : Provided always, that in case of the bankruptcy of any such agent, the owner of the goods and merchandize which shall have been so redeemed by such owner as aforesaid shall, in respect of the sum paid by him on account of such Agent for such redemption, be held to have paid such sum for the use of such agent before his bankruptcy, or in case the goods and merchandize shall not be so redeemed, the owner shall be deemed a creditor of such agent for the value of the goods so pledged at the time of the pledge, and shall if he shall think fit, be entitled in either of such cases to prove for or set off the sum so paid or the value of such goods and merchandize, as the case may be.

Act not to im-
pair the rights of
the owner to re-
deem the goods,
&c., pledged.

Or to prevent his
recovering any
balance from the
party to whom
they were pledg-
ed.

Proviso as to the
case of the Bank-
ruptcy of the
Agent.

IX. And be it enacted, That in construing this Act, the word "person" shall be taken to designate a body corporate or company as well as an individual ; and that words in the singular number shall, when necessary to give effect to the intention of the said Act, import also the plural, and *vice versa* ; and words used in the masculine gender shall, when required, be taken to apply to a female as well as a male ; and that the words "goods and merchandize" shall be taken to include all personal property of whatever nature or kind soever, and the word "shipped" shall be taken to mean the carriage of goods, whether by land or by water.

Interpretation
clause.

X. Provided always, and be it enacted, That nothing herein contained shall be construed to give validity to, or in any wise to affect any contract, agreement, lien, pledge, (*gage*) or other act, matter or thing

Act not to extend
to things done
before the pass-
ing thereof.

Nor to affect any right not inconsistent with this Act.

thing made or done before the passing of this Act; Provided also, that nothing in this Act, contained shall be held to destroy or diminish any other right recourse or remedy not contrary or repugnant to this Act which might be enforced according to the Laws of Upper or Lower Canada.

INTEREST OF MORTGAGORS SALE ACT, (C. W.)

C A P. L X X I I I.

AN ACT TO PROVIDE FOR THE SALE UNDER EXECUTIONS, OF THE INTEREST OF MORTGAGORS IN REAL ESTATE IN CANADA WEST.

[Assented to, 30th May, 1849.]

Preamble.

WHEREAS it is expedient to provide by law, that the interest of Mortgagors and their Equity of Redemption, in Real Estate, may be sold upon Executions against lands and tenements in Upper Canada: Be it therefore enacted, &c., That from and after the passing of this Act, it shall and may be lawful, upon any Writ of *Fieri Facias* lawfully issued against the lands and tenements in Upper Canada of any person or persons who, or any of whom, may be a Mortgagor of Real Estate in the County, to the Sheriff or other Officer of which such Writ is directed, to seize or take in execution, sell and convey, (in like manner as any other Real Estate might be seized or taken in execution, sold and conveyed,) all the legal and equitable estate, right, title, interest and property, and the Equity of Redemption of such Mortgagor in any lands and tenements in such County.

Effect of seizure and of the sale and conveyance to be made under it by the Sheriff: obligations of the purchaser, &c.

II. And be it enacted, That the effect of such seizure or taking in execution, sale and conveyance, shall be to transfer to and vest in the purchaser or purchasers, and the heirs and assigns of such purchaser or purchasers, all the legal and equitable estate, right, title, interest and property, and the Equity of Redemption of such Mortgagor, in the lands or tenements so seized or taken in execution, sold and conveyed at the time of placing such Writ in the hands of the Sheriff or other Officer to whom the same is directed as well as at the time of such sale and to give to and vest in such purchaser or purchasers, and the heirs

of this Act ;
 , contained
 other right
 Act which
 or Lower

E ACT,

THE INTEREST
 ST.

ay, 1849.]

vide by law,
 rs and their
 d upon Exe-
 nada : Be it
 and after the
 be lawful,
 fully issued
 of any per-
 Mortgagee of
 er Officer of
 ecution, sell
 ate might be
 all the legal
 rty, and the
 nds and tene-

ffect of such
 and convey-
 t in the pur-
 nd assigns of
 he legal and
 and the Equity
 or tenements
 at the time
 other Officer
 e of such sale
 sers, and the
 heirs

heirs and assigns of such purchaser or purchasers, the same advantages, benefits, rights, privileges and powers as such Mortgagor could or would have had, enjoyed or exercised if such sale had not taken place ; and that such purchaser or purchasers of the interest of such Mortgagor, or the heirs or assigns of such purchaser or purchasers may pay, remove or satisfy, or cause or procure to be paid, removed or satisfied any mortgage or mortgages, charge or charges, or lien or liens, which at the time of such sale lawfully or equitably existed upon the lands or tenements so sold, in like manner as such Mortgagor or Mortgagors against whom such Writ of *Fieri Facias* was issued, might, or could pay, remove or satisfy such mortgage or mortgages, charge or charges, or lien or liens ; and that upon such payment, removal and satisfaction thereof being effected by such purchaser or purchasers or the heirs and assigns of such purchaser or purchasers, such purchaser or purchasers shall take, have, hold, possess and enjoy the same estate, right, title, interest, property, benefit and advantage which such Mortgagor or Mortgagors against whom such Writ of *Fieri Facias* was issued, might or would have taken, had, held, possessed and enjoyed in case such payment, removal or satisfaction had been effected by such Mortgagor or Mortgagors, and on payment of the mortgage money to the Mortgagee by the purchaser, the Mortgagee, his heirs, or assigns shall, if required, give to such purchaser or the heirs or assigns of such purchaser, at his or their cost and charges, a certificate of payment or satisfaction of such mortgage or of the performance of the condition of the same, which may be in the form and to the effect of the Schedule to this Act marked A, and which certificate shall be of the like effect, and shall be acted upon by Registrars and others, to the same extent as if the same had been given to the Mortgagor, his heirs, executors, administrators or assigns.

Rights of the
 purchaser.

Purchaser paying
 mortgage money
 entitled to a cer-
 tificate of satis-
 faction, &c.

Mortgagee may
 purchase the
 lands mortgaged
 to him.

III. And be it enacted, That any Mortgagee or Mortgagees of the lands and tenements so sold, or of any part thereof, or the heirs or assigns of such Mortgagee or Mortgagees, (being, or not being, Plaintiff or Plaintiffs, Defendant or Defendants in the Judgment whereon the Writ of *Fieri Facias* on which such sale shall take place, was issued) may be the purchaser or purchasers at such sale, and shall and may take, have, hold, possess and enjoy the same estate, title, property, benefits, advantages, rights, privileges and powers as such purchaser or purchasers as any other purchaser or purchasers not interested in the lands or tenements so sold, as Mortgagee or Mortgagees : Provided always, that if the Mortgagee of the said premises shall become the purchaser thereof, he shall, give to

Proviso : he shall
 release the mort-
 gage debt.

the Mortgagor a release of the debt, for the payment of which the mortgage may be given: and if any other person shall become such purchaser, and the Mortgagee shall enforce payment against the Mortgagor of the debt to secure which the mortgage was given, then such purchaser shall be compelled to repay the said debt and interest to the Mortgagor, and in default of such payment, within one calendar month after the same is demanded, the Mortgagor may sue such person in any Court of competent jurisdiction, and recover the amount of such debt and interest, in an action either of debt or assumpsit for money had and received, and until the said debt and interest, if recovered from or paid by the said Mortgagor after such sale, shall be repaid to him, the same shall be a charge upon the premises so mortgaged and sold.

Provision if any other person be the purchaser.

Interpretation clause.

IV. And be it enacted, That where words occur in this Act, importing the singular number or the masculine gender only, they shall be understood to include more than one person, matter or thing of the same kind, as well as one person, matter or thing, and females as well as males, unless it be otherwise expressly provided; and when it would be consistent and reconcilable with the intent and meaning of this Act, wherever any person is described, it shall be held to apply to such person, his heirs, executors, administrators or assigns; and this Act shall extend to Upper Canada only: and all other words, terms or phrases shall receive such fair and liberal construction as shall be best adapted to carry out this Act according to its true intent and meaning.

Act to extend only to C. W.

SCHEDULE A.

Referred to, in Section 2.

To the Registrar of the County of
I, A. B. of do certify that C. D. of
who hath become the purchaser of the interest of E. F. of
hath satisfied all money due upon a
certain Mortgage made by the said E. F. to me bearing date
the day of , one
thousand eight hundred and , and registered at
of the clock in the forenoon, (as the case may be)
of the day of in the same year
(or as the case may be) and that such Mortgage is therefore discharged.

As witness my hand, this day of 18
(Signed,) A. B.

E. H. of } Witnesses.
G. H. of }

MORTGAGEES RELIEF ACT, (C. W.)

C A P. X L V.

AN ACT FOR THE RELIEF OF MORTGAGEES, CANADA WEST.

[Assented to, 30th August, 1851.]

WHEREAS it is expedient that relief should be afforded to Mortgagees of freehold and leasehold property in certain cases in which they are not sufficiently protected by law: Be it therefore enacted, &c., That it shall and may be lawful for any Mortgagee of freehold or leasehold property, or any Assignee or Assignees of such Mortgagee, to take and receive from the Mortgagor or Assignee of such Mortgagor, a release of the equity of redemption in such property, or to purchase the same under any power of sale in his Mortgage, or any judgment or decree, without thereby merging the Mortgage debt as against any subsequent Mortgagee or registered judgment Creditor of the same property.

Preamble.

Mortgagee of freehold property, &c., may receive release of equity of redemption, &c., without merger of his debt.

II. And be it enacted, That whenever any prior Mortgagee or Assignee of such prior Mortgagee of such property as aforesaid, shall take a release of the equity of redemption of the Mortgagor or his Assignee in such Mortgaged property as aforesaid, or shall purchase the same under any power of sale in his Mortgage, or any judgment or decree, no subsequent Mortgagee or his Assignee, or registered judgment Creditor shall be entitled to foreclose or sell such property without redeeming or selling subject to such prior Mortgagee or his Assignee, in the same manner as if such prior Mortgagee had not taken, received or purchased such equity of redemption of the Mortgagor or his Assignee.

When prior Mortgagee shall take release of equity of redemption, &c., subsequent Mortgagee &c., not entitled to foreclose or sell property, without redeeming, &c.

III. And be it enacted, That nothing in this Act contained shall be construed to affect any priority or claim which any Mortgagee or judgment Creditor shall or may have or be entitled to under any Act in force relating to the registry of titles to land.

Priority of any Mortgagee not to be affected by this Act.

IV. And be it enacted, That on any proceeding for foreclosure by, or redemption against any Assignee or Assignees of any Mortgagee, the state-

In proceedings for foreclosure, &c., state of Mortgage account may be proved *prima*

ment

facie by statement
on oath of Assign-
ee of Mortgagee.

ment of the Mortgage account, under the oath of such Assignee or Assignees, shall be sufficient *prima facie* evidence of the state of such account, and no affidavit or oath shall be required from the Mortgagee or any intermediate Assignee, denying any payment to such Mortgagee or intermediate Assignee, unless the Mortgagor or his Assignee, or party proceeding to redeem, shall deny the correctness of such statement of account by oath or affidavit.

Extent of Act.

V. And be it enacted, That this Act shall extend only to Upper Canada.

MORTGAGES TO BE FILED, (C. W.)

C A P. L X X I V.

AN ACT REQUIRING MORTGAGES OF PERSONAL PROPERTY IN CANADA WEST TO BE FILED.

[Assented to, 30th May, 1849.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled, &c., That every Mortgage or Conveyance intended to operate as a Mortgage of Goods and Chattels made after the passing of this Act, in Upper Canada, which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things mortgaged, shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith, unless the Mortgage or Conveyance or a true copy thereof, together with an affidavit of a witness thereto sworn before a Commissioner of the Queen's Bench, of the due execution of the Mortgage or conveyance, or of the due execution of the Mortgage or Conveyance of which the copy to be filed purports to be a copy, shall be filed as directed in the succeeding section of this Act.

Mortgages of personal property in Canada West made after the passing of this Act, to be void unless filed as herein directed

Such Mortgages to be filed in the office of the Clerk of County Court.

II. And be it enacted, That the instruments mentioned in the preceding section, shall be filed in the Office of the Clerk of the County Court of the County where the mortgagor therein, if a resident in Upper Canada, shall reside at the time of the execution thereof, and if not a resident, then in the Office of the Clerk of the County

Con-
shar-
suc-
inst-
tive
ceiv-
Offi-
tere-

II.
copy
ceas-
pers-
purc-
one y
prece-
of su
inter-
virtue
the s

IV.
origin
as af-
suanc-
Office
only o
receiv-
thereo-
dorse-
such in-
facts s

V. A
Courts
such in-
their O-
vided b
instrum-
name, v
name of

VI. A
apply to
provision
Her Ma-
secure th
ing the
the Act o

er the oath of
be sufficient
and no affi-
or any inter-
mortgagee or
Assignee, or
tiness of such

t shall extend

W.)

Y IN CANADA

May, 1849.]

Majesty, by
slative Coun-
e of Canada,
every Mort-
perate as a
ade after the
which shall
ate delivery
d continued
be absolutely
d as against
, unless the
gether with
missioner of
gage or con-
Conveyance
shall be filed

uments men-
e filed in the
Court of the
if a resident
ution thereof,
Clerk of the
County

County Court of the County where the property so mortgaged shall be at the time of the execution of such instrument; and such Clerks are hereby required to file all such instruments aforesaid presented to them respec- And open to in-
tively for that purpose, and to endorse thereon the time of re-
ceiving the same, and shall deposit the same in their respective
Offices to be kept there for the inspection of all persons in-
terested.

III. And be it enacted, That every Mortgage or copy thereof filed in pursuance of this Act, shall cease to be valid as against the creditors of the person making the same, or against subsequent purchasers or mortgagees in good faith after the expiration of one year from the filing thereof, unless within thirty days next preceding the expiration of the said term of one year, a true copy of such Mortgage, together with a statement exhibiting the interest of the mortgagee in the property thereby claimed by virtue thereof, shall be again filed in the Office of the Clerk of the said County Court.

Copy of mortgage
to be filed again
one year after
first filing.

IV. And be it enacted, That a copy of such original instrument or of any copy thereof so filed as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose Office the same shall be filed, shall be received in evidence, but only of the fact that such instrument or copy and statement was received and filed according to the endorsement of the Clerk thereon and of no other fact; and in all cases the original endorsement by the Clerk made in pursuance of this Act upon such instrument or copy, shall be received in evidence only of the facts stated in such endorsement.

Copies of mort-
gages filed with
certificate of
Clerk, to be evi-
dence of such
filing.

V. And be it enacted, That the Clerks of the Courts aforesaid shall respectively number every such instrument or copy which shall be filed in their Offices, and shall enter in books, to be provided by them, alphabetically, the names of all the parties to such instruments, with the number endorsed thereon opposite to each name, which entry shall be repeated alphabetically under the name of every party thereto.

Clerks of the said
Courts to num-
ber instruments
filed with them,
&c.

VI. And be it enacted, That this Act shall not apply to Mortgages of vessels registered under the provisions of an Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to secure the right of property in British Plantation Vessels navigating the inland waters of this Province, and not registered under the Act of the Imperial Parliament of the United Kingdom, passed*

This Act not to
apply to mort-
gage of vessels
registered under
8 Vict., c. 5.

in the third and fourth years of the Reign of His late Majesty King William the Fourth, intituled, 'An Act for the registering of 'British Vessels,' and to facilitate the transfers of the same, and to prevent the fraudulent assignment of any property in such Vessels.

VII. And be it enacted, That for services under this Act, the Clerks aforesaid shall be entitled to receive the following fees :
Fees allowed to Clerk for registering mortgages. for filing each instrument and affidavit, and entering the same in a book as aforesaid, one shilling and three pence ; for searching for each paper, six pence ; and for copies of any documents filed under this Act, six pence for every hundred words.

Amended by 13 and 14 Vict. See following Act on this page.

MORTGAGES TO BE FILED, AMENDED (C. W.)

C A P. L X I I .

AN ACT TO ALTER AND AMEND THE ACT REQUIRING MORTGAGES OF PERSONAL PROPERTY IN CANADA WEST TO BE FILED.

[Assented to, 24th July, 1850.]

Preamble.

WHEREAS the Law now in force in Upper Canada requiring Mortgages of Personal Property to be filed requires amendment, so as to require that every sale of goods and chattels which shall not be accompanied by an immediate delivery and be followed by an actual and continued change of possession of the things sold, shall be in writing ; and so as to require that a copy thereof be filed in the same manner as a mortgage or conveyance by the said Act is required to be filed ; and so as to require an affidavit that the mortgages and conveyances mentioned in the said Act, and the bills of sale in writing mentioned in this Act, are *bonâ fide* and just and not for the purpose of protecting such goods and chattels in the possession of the mortgagee, or bargainee against the creditors of the mortgagor or bargainor : Be it therefore enacted, &c., That the first Section of the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act requiring Mortgages of Personal Property in Upper Canada to be filed*, be and the same is hereby amended by adding to the end thereof, as follows :

Sect. 1 of 12 Vict., c. 74, amended.

The amendment

late Majesty
e registering
of the same,
erty in such

this Act, the
following fees :
avit, and en-
, one shilling
each paper,
nder this Act,

ENDED

GAGES OF PER-
ED.

July, 1850.]

orce in Upper
s of Personal
require that
accompanied
n actual and
l, shall be in
e filed in the
e said Act is
avit that the
Act, and the
bonà fide and
s and chattels
e against the
gainer: Be it
Section of the
Her Majesty's
Personal Pro-
me is hereby
of, as follows :
"And

13 & 14 Vict. SIMPLE CONTRACT OR DEBT, (C. W.) Cap. 61, 1850.

"And that every sale of goods and chattels which shall not be accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of the said Act; and that the mortgages and conveyances mentioned in the said Act and the writing or conveyance mentioned in this Act, shall be accompanied with an affidavit of the mortgagee or bargainee of such goods, sworn before a Commissioner of the Queen's Bench or Common Pleas, to the effect,—in the case of a mortgage, that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the said mortgage, that it was executed in good faith and for the express purpose of securing the payment of the money so justly due, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor,—and in case of an absolute sale, that the sale is *bonà fide* and for good consideration (setting it forth) and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor; otherwise such mortgage or sale shall be absolutely void as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith."

as to sales of
goods not imme-
diately delivered.

Affidavit re-
quired.

ACTIONS ON SIMPLE CONTRACT OR DEBT,
(C. W.)

AN ACT FOR RENDERING A WRITTEN MEMORANDUM NECESSARY TO THE
VALIDITY OF CERTAIN PROMISES AND ENGAGEMENTS.

[Assented to, 24th July, 1850]

WHEREAS, by an Act passed in England in the twenty-first year of the Reign of King James the First, it was among other things enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, all actions of debt grounded upon any lending or contract without speciality, and all actions of debt for arrearages of rent, should be commenced within six years after the cause of such action or suit, and not after: And whereas questions have arisen upon the proof of ac-
knowledgments

Preamble.

English Act 21,
James 1, c. 16, re-
cited.

Limitation of
action, six years.

knowledge and promises to take the cases in such actions out of the operation of the said Statute: Be it therefore enacted, &c., That in all actions on simple contract or debt of the nature hereinbefore mentioned, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take any case out of the operation of the said Act, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby; and that where there shall be two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest made by any other or others of them; Provided always, that in actions commenced against two or more such joint contractors, executors or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by the said recited Act or by this Act, as to one or more of such joint contractors, or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment, promise or payment as aforesaid, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

Written memorandum required to take the case out of statute.

Case of two or more joint contractors, &c.

Provide: where Plaintiff may be barred as to one or more defendants, but not as to all.

As to non-joinder of defendants who have good defence under the said Act and this Act.

As to costs in new action, the first being discontinued on such plea.

II. And be it enacted, That if upon any plea in abatement in any of the said actions for the non-joinder of any person or persons, who, it is alleged, ought to be sued jointly, it shall appear at the trial or otherwise, that the action could not, by reason of the said recited Act or this Act, or of either of them, be maintained against the other person or persons named in such plea, or any of them, the finding and judgment on such plea, shall be against the party pleading the same; and if after the pleading of such plea, the plaintiff, instead of proceeding in the said action, shall abandon or discontinue the same, and commence a new action against the defendant or defendants pleading such plea and the person or persons named therein, as jointly liable with such defendant or defendants, and it shall appear upon the trial or pleadings in such new action that such action could not, by reason of the said recited Act or this Act, be maintained against the person or persons named in the said plea in abatement and joined in the said new action, but

such actions
fore enacted,
contract or debt
no acknow-
all be deemed
t whereby to
or to deprive
vledgment or
writing to be
where there
rs, or execu-
ctor, no such
istrator shall
ole in respect
at or promise
by reason of
any other or
nat in actions
ach joint con-
ners, if it shall
t the plaintiff,
Act, as to one
dministrators,
any other or
nowledgment,
be given and
or defendants
defendant or

on any plea in
ns for the non-
o, it is alleged,
ear at the trial
of the said re-
tained against
any of them,
e against the
er the pleading
proceeding in
discontinue the
defendant or de-
persons named
defendants, and
ch new action
recited Act or
persons named in
new action, but
against

13 & 14 Vict. SIMPLE CONTRACT OR DEBT, (C. W.) Cap. 61, 1850.

against the original defendant or defendants alone, the plaintiff shall thereupon be entitled to recover against the original defendant or defendants, in the said new action, as well the costs of the original action so abandoned or discontinued on such plea in abatement, as the costs awarded to such other defendant or defendants so joined in the said action by reason of the pleading of such plea, in addition to the debt or damages and costs recoverable against the said original defendant or defendants, and the said other defendant or defendants so joined in the said new action, and not liable therein, shall recover his or their costs against the plaintiff.

III. And be it enacted, That no indorsement or memorandum of any payment written or made after the time appointed for this act to take effect, upon any promissory note, bill of exchange, or other writing by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment, so as to take the case out of the operation of the said Statute.

Indorsement, &c.,
made by the
payee, not to
take a note, &c.,
out of the Stat-
ute.

IV. And be it enacted, That the said recited Act and this Act shall be deemed and taken to apply to the case of any debt on simple contract, or of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant, either by plea, notice or otherwise.

Statute to apply
to set-off.

V. And be it enacted, That no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age, of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

As to ratification
of promise made
during non-age.

VI. And be it enacted, That no action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless such representation or assurance be made in writing signed by the party to be charged therewith.

As to representa-
tion concerning
the character,
credit, &c., of a
third party.

VII. And be it enacted, That the seventeenth section of an Act passed in England, in the twentieth year of the Reign of King Charles the Second, intituled, *An Act for the prevention of Frauds and Perjuries*, shall extend to all contracts for the sale of goods

Statute of Frauds
extended to con-
tract for goods to
be delivered at a
future time, &c.

of the value of Ten Pounds currency, and upwards, notwithstanding the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

Extent of Act.
Commencement.

VIII. And be it enacted, That this Act shall extend to Upper Canada alone, and shall take effect and commence on the First day of January, one thousand eight hundred and fifty-two.

ATTACHMENTS AGAINST PERSONAL PROPERTY, (C. W.)

C A P. L X I X.

AN ACT TO AUTHORIZE ATTACHMENTS AGAINST PERSONAL PROPERTY, FOR SUMS OF TEN POUNDS AND UNDER, IN CERTAIN CASES IN CANADA WEST.

[Assented to, 30th May, 1849.]

Preamble.

WHEREAS it is necessary to provide further protection to Creditors, and to afford the means of attaching the personal property of absconding, removing or concealed Debtors in Upper Canada, for any sum to the amount of ten pounds, and not less than twenty shillings, for any debt or damage arising upon any contract, express or implied, or upon any judgment: Be it therefore enacted, &c., That if any person or persons in any County of Upper Canada, being indebted in such sum and manner as mentioned in the preamble to this Act, shall abscond from this Province, leaving personal property liable to seizure under Execution for Debt, in any County in Upper Canada, or shall attempt to remove his, her or their personal property of the description above-mentioned, either out of Upper Canada, or from one County to another therein, or from Upper to Lower Canada, or shall keep concealed in any County of Upper Canada to avoid service of Process, with intent and design to defraud his or her Creditor or Creditors, it shall and may be lawful for any Creditor or Creditors of such person or persons, his, her or their Servant or Agent, to make application to the Clerk of any Division Court of the County wherein the Debtor or Debtors were or was last domiciled,

Personal property of concealed or absconding debtors may be attached on certain conditions.

Affidavit to be made and filed.

ds, notwith-
ered at some
be actually
ery, or some
g thereof, or

Act shall ex-
ll take effect
ousand eight

L PRO-

PROPERTY, FOR
ES IN CANADA

May, 1849.]

provide further
to afford the
ding, remov-
y sum to the
dings, for any
r implied, or
That if any
pper Canada,
ner as men-
shall abscond
nal property
ny County in
or their per-
either out of
rein, or from
any County
ntent and de-
shall and may
itors of such
e Servant or
sion Court of
or was last
domiciled,

domiciled, or where the debt was contracted, or to the Judge of the County Court therein, or the United Counties of — (as the case may be), or to any Justice of the Peace in any County of Upper Canada, and upon making or producing an affidavit or affirmation to the purport of that in the Schedule to this Act annexed marked A (which affidavit or affirmation the said Clerks, Judges and Justices of the Peace are respectively hereby authorized to administer,) and upon then and there filing the said affidavit or affirmation with such Clerk, Judge, or if taken before a Justice of the Peace (whose duty it shall be to transmit the same forthwith to the Clerk of the Division Court within whose Division the same was so made or taken, to be filed and kept among the papers in the cause,) it shall be lawful for such Clerk, Judge or Justice of the Peace forthwith to issue a Warrant under his hand and seal, directed to the Bailiff of the Division Court within which the same was issued, or to any Constable of the County, commanding such Bailiff or Constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person or persons, of what nature and kind soever, liable to seizure under execution for debt, within such County, or a sufficient portion thereof to secure the sum mentioned in the Warrant, with the costs of the action, and to return the same forthwith to the Division Court of the Division wherein such Warrant was issued, upon receipt of which Warrant the Bailiff or Constable to whom the same may be directed, shall forthwith execute the same, and, with the assistance of two freeholders, make a just and true inventory of all such personal estate and effects as he shall seize and take by virtue thereof, and shall forthwith return the same to the Clerk of the Division Court of the Division within which such Warrant was issued, and which warrant may be in the form of that in the Schedule to this Act annexed marked B; Provided always, that the freeholders and appraisers authorized by this Act shall be entitled to receive for each day they may be employed in carrying its enactments into effect the sum of two shillings and sixpence each, to be paid in the first instance by the Plaintiff or Plaintiffs, and allowed in the costs of the cause: Provided always, that proceedings may be conducted to Judgment and Execution in any case commenced by Attachment under the provisions of this Act, in the Division Court of the Division within which the Warrant of Attachment shall issue; and that when proceedings shall be commenced in any case before the issuing of an Attachment under the provisions of this Act, such proceedings may be continued to Judgment and Execution in the Division Court within which such proceedings may have been commenced,

Warrant to be issued for seizing the property.

How such warrant shall be executed.

Appraisement and return.

Proviso: fees of appraisers, &c.

Proviso: in what Court the proceedings shall be conducted and completed.

commenced, and the property seized upon any such Attachment, shall be liable to seizure and sale under the Execution to be issued upon such judgment or the proceeds thereof, in case such property shall have been sold as perishable, shall be applied in satisfaction of such judgment; Provided further, that it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division Court, but any Plaintiff having a cause of action above the value of ten pounds, for which an Attachment might be issued under this Act, if the same were not above the value of ten pounds, may abandon the excess, and upon proving his case, shall and may recover to an amount not exceeding ten pounds, and the judgment of the Court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly.

Proviso: Plaintiff not to divide his cause of action for the purpose of bringing actions in a Division Court, &c.

II. And be it enacted, That all property seized under the provisions of this Act, shall be forthwith handed over to the custody and possession of the Clerk of the Division Court of the Division within which the Warrant was issued, who shall take the same into his charge and keeping, and shall be allowed all necessary disbursements for keeping the same.

Property to be in the custody of the Clerk of the Court.

III. And be it enacted, That if any person or persons against whose estate or effects such Warrant or Warrants may have been issued, or any person or persons on his, her or their behalf, shall at any time prior to the judgment in the cause, execute and tender to the creditor or creditors who sued out such Warrant or Warrants as aforesaid, and shall file in the Division Court to which the Warrant or Warrants of Attachment shall have been returned, a bond with good and sufficient sureties, to be approved of by the Judge or Clerk of the Division Court, binding the obligors, jointly and severally, in double the amount of the sum claimed, conditioned that the debtor or debtors (*naming him, her or them*) shall, in the event of the claim being proved and judgment being recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same or the value of the property so taken and seized, to the claimant or claimants, or shall produce such property whenever thereunto required to satisfy such judgment, it shall and may be lawful for such Clerk to supersede such Warrant, and all and singular the property which may have been attached shall be restored.

Defendant may obtain a release of the property on giving security, &c.

If security be not given, the property shall be

IV. And be it enacted, That if after the period of one month from the seizure aforesaid, the party
472
against

12
age
his
sur
as
exe
seiz
prop
sam
app
been
able
V
in t
or
shal
cess
serv
aboo
ing,
ther
and
and
alwa
the J
or ot
ditor
had
then
shall
there
VI
cattle
shall
it sha
keepi
holder
to exp
bided
Clerk
within
articl
cretio
pulsor
upon
until
to the
suretie
be asc

against whom the Warrant issued, or some one on his behalf, do not appear and give such bond with sureties conditioned as above mentioned, whenever and as soon as judgment shall have been obtained upon such claim or claims, execution thereupon may immediately issue, and the property seized upon such attachment or attachments, or enough of such property to satisfy the same, may be sold thereon to satisfy the same according to law, or enough of the proceeds thereof may be applied to satisfy the judgment and costs, if the same shall have been previously sold under the provisions of this Act, as perishable property.

sold whenever judgment is obtained.

V. And be it enacted, That in order to proceed in the recovery of any debt due by the person or persons against whose property a Warrant shall have issued under this Act, where Process shall not have been previously served, the same may be served either personally or by leaving a copy at the last place of abode of the Defendant, with any person or persons there dwelling, or by leaving the same at the said dwelling, if no person be there found; and in every case, all subsequent proceedings shall and may be conducted according to the usual course of practice and proceedings in the Division Court aforesaid: Provided always, that if it shall appear to the satisfaction of the Judge in the trial of any cause, upon affidavit or other sufficient proof, that the creditor or creditors suing out an attachment under the provisions of this Act, had not reasonable or probable cause for taking such proceeding, then it shall be the duty of the Judge to order that no costs whatever shall be allowed to such creditor or creditors, plaintiff or plaintiffs therein, and no costs in such case shall be recovered in the cause

As to service in cases where there has been none previous to the suing out of the warrant.

Proviso: Where there was no reasonable cause for the attachment.

VI. And be it enacted, That in case any horses, cattle, sheep, or other perishable goods or chattels shall be taken upon any Warrant to be issued under this Act, it shall be lawful for the Clerk of the Court in whose custody or keeping the same shall be, to have the same valued by two freeholders, and at the request of the plaintiff suing out the Warrant, to expose and sell the same at public Auction to the highest bidder, giving at least eight days' notice, at the office of the Clerk of the said Division Court, and at two other public places within such Division, of the time and place of such sale, if the articles seized will admit, otherwise to sell the same at his discretion: Provided always, that it shall not be compulsory upon the Bailiff or Constable to seize, or upon the Clerk to sell such perishable articles, until the party suing out the Warrant shall have given a bond to the defendant or defendants therein, with good and sufficient sureties in double the amount of the appraised value thereof (to be ascertained as aforesaid), conditioned that the party directing such

What shall be done with perishable goods.

Proviso: Seizure not to be made until the plaintiff gives security.

such seizure and sale will repay the value thereof, together with all costs and damages that may be incurred in consequence of such seizure and sale, in case judgment be not obtained for such party suing out such attachment, which bond shall also be filed

Provide: In what court bonds given under this Act may be sued upon.

with the papers in the cause: Provided always, that any bond given in the course of any proceeding under this Act, may be sued in any Division

Court of the County wherein the same shall have been executed, and proceedings may be thereupon carried on to judgment and execution in such Court, notwithstanding the penalty contained in such bond may exceed the sum of Ten pounds: And provided

Provide as to the delivery of the Bond.

further, that every bond shall and may be delivered up to the party entitled to the same, by the order and at the discretion of the Judge of such Court to be enforced or cancelled, as the case may require.

Residue to be paid to defendant

VII. And be it enacted, That any residue which may remain after satisfying such judgment, with the costs thereupon, shall be delivered to the defendant, or to the agent of the defendant, or to the person or persons in whose custody the same were found, whereupon the responsibility of the Clerk as respects such property shall cease.

Costs on proceedings under this Act.

VIII. And be it enacted, That in addition to the usual costs allowed on proceedings in the Division Courts, the following charges shall be taxed and allowed against the defendant for the several proceedings under this Act, viz. :—

	£	s.	d.
Every Oath or Affirmation, including the drawing thereof.....	0	1	6
Every Warrant.....	0	1	3
Every Mile necessarily travelled in going to seize...	0	0	4
Every Schedule of Property seized, and return, including Affidavit of Appraisal.....	0	2	6
Every Bond, including Affidavit of Justification.....	0	2	6
To the Clerk for taking charge of and keeping the property seized, such sum as the Judge may order in each particular case.			

Recital.

IX. And whereas, by the present practice in some of the Division Courts in Upper Canada, no interest is allowed on the amount recovered under any judgment therein, and it is considered doubtful whether interest can be charged thereon, and it is right that such interest should be allowed and

Judgment of a Division Court to carry interest.

recoverable: Be it therefore enacted, That legal interest shall be allowed and recoverable upon the sum recovered under any judgment of a Division Court in Upper Canada (reckoning from the date of the entry thereof,) upon the amount remaining unpaid of the sum so recovered, and such interest, if not paid, shall be levied in the

same n
in like
the day
levying
thereof

X. A
be allow
or bein
of actio

XI. A
lawful
and be
manner
and exe
or issue

XII.
duty of
in Upper
mons fo
the part
which su
pence fo
and suc
monses
costs sha

XIII.
ful for th
upon pro
mons, an
fended c
demand.

XIV. A
said Cour
the gene
may rece
amount o
that it sh
visior. Co
upon app
trial of an

XV. A
Division
presentati
fore enact
or both of

same manner as the amount of the judgment itself, and paid over in like manner to the plaintiff, and the judgment shall mention the day from which interest is to be recovered, and the Bailiff levying under the judgment shall ascertain and levy the amount thereof at the rate aforesaid.

X. And be it enacted, That no privilege shall be allowed to any person to exempt him from suing or being sued in the Division Courts aforesaid, upon any cause of action within the jurisdiction of the said Courts.

Any person may be sued in a Division Court.

XI. And be it enacted, That it shall and may be lawful for any executor or administrator to sue and be sued in any Division Courts in Upper Canada, in like manner as if he were a party in his own right, and the judgment and execution shall be such as in the like cases would be given or issued in any Superior Court.

Executors, &c., may sue in the said Courts.

XII. And be it enacted, That it shall be the duty of the Clerks of the several Division Courts in Upper Canada, to make out a copy of the summonses for each defendant in every suit, together with a copy of the particulars of the plaintiff's demand therein, for service, for which such Clerks shall be entitled to receive six pence for each defendant, to be allowed in the costs of the cause; and such Clerks shall and may issue *alias* and *pluries* Summonses in actions within the said Courts, for which the same costs shall be allowed as for original Summonses.

Clerk to make a copy of summons, &c., for each defendant.

Fee for so doing.

XIII. And be it enacted, That it shall be lawful for the Judges of the said Courts respectively, upon proof of personal service of a copy of Summonses, and of the particulars of the plaintiff's demand, in undefended cases, to give judgment in their discretion for any such demand.

On what proof judgment may be given in undefended cases.

XIV. And be it enacted, That the Judges of the said Courts upon proof of and being satisfied with the general correctness of the plaintiff's books, may receive the same in evidence and give judgment to the amount of two pounds in any case within the said Courts; and that it shall be lawful for the Judge in any Division Court, in his discretion, to grant a new trial, upon application of either party, within fourteen days after the trial of any cause therein.

As to receiving plaintiff's books in evidence.

As to new trial.

XV. And whereas it is desirable that judgments in the said Division Courts should be revived by and against the personal representatives of the parties thereto: Be it therefore enacted, That in the event of the death of either or both of the parties to any such judgment, it shall

Judgments may be revived in favor of certain cases.

and

either with
sequence of
ed for such
so be filed
ed always,
y proceed-
y Division
r executed,
gment and
contained
d provided
y be deliv-
me, by the
t to be en-

idue which
ment, with
t, or to the
whose cus-
ility of the

addition to
in the Di-
nd allowed
er this Act,

£ s. d.

0 1 6

0 1 3

0 0 4

0 2 6

0 2 6

e property
icular case.

practice in
interest is
ent therein,
be charged
allowed and
That legal
rable upon
ent of a Di-
late of the
the sum so
vied in the
same

and may be lawful for the party in whose favor such judgment may have been entered, or his personal representatives in case of his death, to revive such judgment against the other party, or his personal representatives in case of his death, and to issue execution thereupon, according to such practice and after such notice therein, as may be provided and established by the Judges of the said Courts respectively.

Judges may make rules of practice and forms.

XVI. And be it enacted, That the Judges of the County Courts respectively shall have power, from time to time, to make general rules regulating the the practice and proceedings of the said Division Courts, and also to frame forms for any proceeding in the said Courts, for which they shall think it necessary that a form be provided, and from time to time to alter any such form.

Recital.

XVII. And whereas the amount of business in certain Divisions is not so great as to require the holding of Courts therein once in every two months, while from the remoteness and inaccessibility of the same, the holding of the said Courts therein is, especially at certain seasons of the year, attended with great difficulty: Be it therefore enacted, That if it shall be certified to His Excellency the Governor General in Council, by the Magistrates of any County in Quarter Sessions assembled, that in any Division of such

Governor in Council may in certain cases diminish the frequency of sittings of any Division Court.

County, it is expedient for the above causes that such Courts should be held there less frequently than once in every two months, it shall and may be lawful for his Excellency in Council to order such Courts to be held therein, at such periods as to His Excellency in Council shall seem fit: Provided always, that such Courts shall be held in any such Division at least once in every six months, and that it shall be lawful for his Excellency in Council to revoke any such order at pleasure.

Proviso: Court to be held on at least every six months.

Deputy Judge need not be a Barrister of five years' standing.

XVIII. And be it enacted, That it shall no be necessary that any person to be appointed as Deputy for holding any Division Court in the absence of the Judge shall be a Barrister of five years' standing, nor resident in the County in which he is appointed to act, but that it shall be sufficient if he be a Barrister duly admitted as such.

SCHEDULE A.

Referred to in Section 1.

Canada, } A. B., of _____, in the County of
County of _____, (the Plaintiff or Agent, as the case
To Wit: } may be,) maketh oath and saith, that C. D.
476 (the

(the de
ditor's
of Cam
Depo
and ve
this Pr
(the cr
liable
of
to absco

sonal e
the said
to avoi
fraud th
and this
as the c
issued,
Swor
may be,
day of
thousan

Ca
County
To
To A. B
You a
the pers
abscond
kind soe
said Cou
the Unit
may be,
the credi
due,) tog
turn this
the Clerk
Division
herein fa
Witnes

Clerk

judgment
s in case
her party,
nd to issue
after such
the Judges

dges of the
ower, from
ulating the
Courts, and
Courts, for
provided,

usiness in
require the
ths, while
the holding
asons of the
e it there-
ied to His
Council, by
arter Ses-
on of such
uch Courts
every two
in Council
iods as to
: Provided
n any such
ths, and that
a Council to

ll no the ne-
d as Deputy
absence of
ears' stand-
nted to act,
y admitted

ounty of
as the case
, that C. D.
(the

12 Vict. ATTACHMENTS AGAINST PROPERTY, (C. W.) Cap. 69, 1849.

(the debtor's name) is or are justly and truly indebted to (the creditor's name) in the sum of _____ of lawful money of Canada, for (here state the cause of action briefly). And this Deponent further saith, that he hath good reason to believe, and verily doth believe, that the said C. D. hath absconded from this Province, with intent and design to defraud the said A. B. (the creditor) of the said debt, and hath left personal property liable to seizure under execution for debt within the County of _____; or that the said C. D. (is or are) about to abscond from this Province, or to leave the County of _____, with intent and design to defraud the said (the creditor) of the said debt, taking away personal estate liable to seizure under execution for debt, or that the said C. D. is concealed within the County of _____ to avoid being served with Process, with intent and design to defraud the said (the creditor) of his said debt; and this Deponent further saith, that this affidavit (or affirmation, as the case may be,) is not made, nor the Process thereon to be issued, from any vexatious or malicious motive whatever.

Sworn (or affirmed, as the case may be,) before me, the _____ day of _____, one } Signature of Deponent here.
thousand eight hundred and

SCHEDULE B.

Referred to in Section 1.

Canada, }
County of } To A. B., Bailiff of the Division Court of
To Wit: } the said County of _____, or

To A. B., a Constable of the said County of (as the case may be.)

You are commanded to attach, seize, take and safely keep all the personal estate and effects of C. D. (naming the debtor,) an absconding, removing or concealed debtor, of what nature or kind soever, liable to seizure under execution for debt, within the said County of _____, (if a United County, say one of the United Counties of _____,) (as the case may be,) or a sufficient portion thereof to secure A. B. (here name the creditor) for the sum of (here state the amount sworn to be due,) together with the costs of his suit thereupon, and to return this Warrant with what you shall have taken thereupon, to the Clerk of the (here state the number of the Division) Division Court of the County aforesaid forthwith—and herein fail not.

Witness my hand and seal, the _____ day of _____, 18 _____.

E. F., [L. S.]
Clerk, Judge or Justice of the Peace, (as the case may be.)
477 LAW

LAW AMENDED RELATING TO REPLEVIN IN C. W.

CAP. LXIV.

AN ACT TO AMEND AND EXTEND THE LAW RELATING TO THE REMEDY BY REPLEVIN IN CANADA WEST.

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS it is expedient to amend and extend the remedy by Replevin in Upper Canada: Be it therefore enacted &c., That whenever any goods, chattles, deeds bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings valuable securities or other personal property or effects have been, or shall be wrongfully distributed, or otherwise wrongfully taken, or have been or shall be wrongfully detained, the owner, or

Action of Replevin to lie in certain cases, where actions of trover or trespass now lie.

person or corporation, who by Law can now maintain an action of trespass or trover for personal property, shall have and may bring an action of Replevin for the recovery of such goods, chattels, or other personal property aforesaid, and for the recovery of the damages sustained by reason of such unlawful caption and detention, or of such unlawful detention, in like manner as actions are now by law brought and maintained by any person complaining of an unlawful distress; and the Writ of Replevin to be issued in any such case or action hereafter to be brought, shall be framed according to the circumstances of each case, and tested in the name of the senior Judge of the Court out of which the same shall issue, and on the day of the month and year in which it shall issue, and be returnable on the eighth day after the service of a copy thereof on the defendant, or if he cannot be found, by leaving such copy at his usual or last place of abode, with his wife or some other grown person being a member of the household, or of the house wherein he resided as aforesaid, and may be in the following form:

The Form.

County
or
United Counties of } Victoria, by the Grace of God, of the
United Kingdom of Great Britain and
Ireland, Queen, Defender of the Faith.
(as the case may be.)
To the Sheriff of (here insert name of County or United Counties)
—Greeting:

LEVIN

REMEDY BY

st, 1851.]

end and ex-
n in Upper
enever any
otes, bills of
itings valu-
property or
y distribut-
have been
owner, or
n an action
ve and may
such goods,
and for the
such un-
ful deten-
w brought
lawful dis-
e issued in
e brought,
h case, and
nt of which
nd year in
cannot be
e of abode,
mber of the
resaid, and

od, of the
tain and
he Faith.

l Counties)

We

Ve command you that, without delay, you cause to be replevied to (A. B.) his goods, chattels and personal property following, that is to say : (*here set out the description of property as in the affidavit filed*) which the said (A. B.) alleges to be of the value of _____, and which (C. D.) hath taken and unjustly detains (*or unjustly detains, as the case may be,*) as it is said, in order that the said (A. B.) may have his just remedy in that behalf: And that you summon the said (C. D.) to appear before us in our Court of Queen's Bench, (*or Court of Common Pleas*), at Toronto, (*or our County Court*), at _____ in and for the County, (*or United Counties, as the case may be*) within eight days after service of a copy of this Writ upon the said C. D.) to answer to the said (A. B.) in a Plea of taking and unjustly detaining (*or unjustly detaining, as the case may be,*) his goods, chattels and personal property aforesaid. And what you shall do in the premises, make appear to us in our said Court on the day and at the place aforesaid; And have there and then this Writ.

Witness _____
this _____ day of _____ of our said Court, at _____
A. D. 18 _____
(*Signature of Clerk.*)

This Writ is to continue in force for three months from the date thereof, and no longer.

Provided always, That the Sheriff shall not serve a copy of the said Writ of Replevin on the defendant, until he shall have replevied the property therein mentioned, or until he shall have replevied some part thereof, and cannot replevy the residue, by reason of the same having been elogned out of his bailiwick, by the defendant, or by reason of the same not being in the possession of the defendant, or of any person for him.

II. And be it enacted, That before any Writ of Replevin shall issue for the recovery of any such goods, chattels, or other personal property, the person claiming the same, his servant or agent, shall make an affidavit that such person claiming as aforesaid, is the owner of the property claimed, which shall be described in such affidavit, or that he is lawfully entitled to the possession thereof, and shall state the value thereof to the best of the deponent's belief, which affidavit shall and may be sworn before a Judge of one of the Superior Courts of Record in Upper Canada, the Judge of the County Court, or a Commissioner for taking affidavits in Her Majesty's Court of Queen's Bench or Common Pleas in Upper Canada, or a Commissioner duly appointed under the Act passed in the twelfth year of Her Majesty's Reign, intituled, *An Act to authorize the Judges of the Superior Courts of Record in Upper Canada to appoint Commissioners for taking affidavits in Lower Canada*, and shall be entitled in the Court in which such action of Replevin

Affidavit to be taken before the Writ issues.

plevin may be brought, and filed therein, to be kept among the papers in the cause.

Defendant not appearing, plaintiff may file appearance for him, and proceed.

III. And be it enacted, That when the party or parties, defendant in any such suit of Replevin, shall have been duly served with a copy of the Writ of Replevin issued in any such suit, and if he, she or they do not enter their appearance in such suit, at the return of such Writ of Replevin, the plaintiff or plaintiffs in such action may, after filing such Writ, with an affidavit of the service thereof having been made on the defendant in manner before mentioned and directed, enter a common appearance for such defendant, and proceed thereon as if such defendant had appeared.

Condition and amount of the Bond to be taken by the Sheriff.

IV. And be it enacted, That the condition of the Bond to be taken by the Sheriff executing any such Writ of Replevin, and prescribed by the Act of the late Province of Upper Canada, passed in the fourth year of His late Majesty King William the Fourth, chapter seven, intituled, *An Act to facilitate the remedy by Replevin*, may be altered in the wording thereof, so as to correspond with the Writ in any such action to be brought; and the said Bond shall be taken for treble the amount of the value of the property to be replevied, as sworn to in the affidavit filed by or on behalf of the claimant or plaintiff, and stated in such Writ of Replevin.

Where the action may be brought.

V. And be it enacted, That whenever an action of Replevin shall be brought for the recovery of goods, chattels or other personal property aforesaid, distrained for any cause, it shall be laid and brought in the County or United Counties in which the distress was made, and not elsewhere, and in other cases, the action shall or may be laid and brought in any County or United Counties.

What the Sheriff shall state in his return.

VI. And be it enacted, That the Sheriff shall return the Writ at or before the return day thereof, and shall annex thereto, and transmit therewith the names of the persons who were sureties in the Bond taken by him from the plaintiff, with their places of residence and additions, together with the date of such Bond, and the name or names of the witnesses thereto, and shall state in his return the number, quantity and quality of the articles or property replevied thereunder, and if the Sheriff shall have replevied only a portion of the property and effects in said Writ mentioned and set forth, and cannot replevy the residue by reason of having been eloiigned out of his bailiwick by the Defendant, or by reason of the same not being in the possession of the Defendant, or of any other person for him, that then he shall state in his said return the articles of property which he cannot replevy, and the reason therefor.

among the

the party or
of Replevin,
copy of the
t, and if he,
suit, at the
tiffs in such
the service
anner before
ce for such
d appeared.

condition of
ecuting any
by the Act
fourth year
or seven, in-
y be altered
Writ in any
be taken for
e replevied,
he claimant

er an action
recovery of
l, distrained
County or
nd not else-
be laid and

Sheriff shall
day thereof
he names of
by him from
ons, together
s of the wit-
er, quantity
reunder, and
the property
and cannot
ed out of his
ne not being
erson for him,
s of property

VII.

14 & 15 Vict. LAW RELATING TO REPLEVIN, (C. W.) Cap. 64, 1851.

VII. And be it enacted, That the Plaintiff and Defendant to any such action or suit shall declare, avow, reply, rejoin and otherwise plead to issue, and have and take all subsequent proceedings to trial and judgment within the same time, as in other personal actions, and in case of default or neglect so to do, shall be liable to the like judgment of discontinuance, *non pros.*, or non-suit, as in other personal actions.

As to pleadings,
&c., in such
action.

VIII. And be it enacted, That where the original taking of the goods, chattels, or other personal property, is not complained of, but the action is founded on a wrongful detention thereof, the declaration shall conform to the writ, and may be the same as in an action of detinue, and where the action is founded upon a wrongful taking and detention of the property aforesaid, it shall not be necessary for the Plaintiff to state in his declaration a place certain within the city, town, township or village as that where the property was taken; provided always, that if the Defendant, in any such action last aforesaid, justifies or avows the right to take or detain any such goods, chattels, or other property aforesaid, in or upon any place or premises, in respect of which the same would be liable to forfeiture, distress for rent, damage, feasant custom, rate or duty, by reason of any law, usage or custom now existing and in force, such Defendant shall state in such plea of justification or avowry a place certain within the City, Town, Township or Village within the County, as that where such property was so distrained or taken.

Declaration to be
made to suit the
case, &c.

Provido, if the
defendant avows
and justifies.

IX. And be it enacted, That the Defendant shall be entitled to the same pleas in abatement or bar as heretofore, and may plead as many matters in defence as he shall think necessary, and which would by law constitute a legal defence, if such action were an action of trespass, when the taking be complained of, or were an action of detinue when the detention only be complained of.

What pleas and
matters of de-
fence the defend-
ant shall have.

X. And be it enacted, That the property to be replevied, or any part thereof, be secured or concealed in any dwelling house or other building or inclosure of the Defendant, or of any other person holding the same for him, and if the Sheriff shall have publicly demanded from the owner and occupant of the premises deliverance thereof, and if the same be not delivered to him within twenty-four hours after such demand made, he may or shall, if necessary, break open such house, building or enclosure for the purpose of replevying such property or any part thereof, and shall make replevin according to the Writ aforesaid, and that if the property to be replevied or any part thereof

Sheriff may in
certain cases
break open any
house, &c., in
which the goods
replevied are.

thereof be concealed either about the person or the premises of the Defendant or any other person holding the same for him, and if the Sheriff shall have demanded from the Defendant, or such other person aforesaid, deliverance thereof, he shall and may, if necessary, search and examine the person and premises of the Defendant, or of such other person aforesaid, for the purpose of replevying such property or any part thereof, and shall make replevin according to the Writ aforesaid.

INSOLVENT DEBTORS' ACT, (C. W.)

C A P. C X V I.

AN ACT TO EXTEND THE PROVISIONS OF THE INSOLVENT DEBTORS' ACT, AND TO AFFORD RELIEF TO A CERTAIN DESCRIPTION OF PERSONS THEREIN NAMED, (C. W.)

[Assented to, 30th August, 1851.]

Preamble.

WHEREAS there are many instances of Traders who did, while the Bankrupt Act was in force in this Province, at the request of a number of their Creditors expressed by their coming under the Assignments hereinafter mentioned, execute Assignments of all their property for the benefit of their Creditors, or of such as might choose to come into such Assignments, for the purpose of avoiding the expense and delay attending proceedings in Bankruptcy, thereby, at such especial instance of the said Creditors, foregoing the advantage of the said Bankrupt Act; and in some instances it has happened that, notwithstanding such complete yielding up of all the property of such Traders, some of their Creditors have afterwards declined becoming parties to such Assignments, without fraud, or gross or culpable negligence on the part of such Traders; and whereas such parties are precluded from availing themselves of the benefit of the Act of eighth Victoria, chapter forty-eight, for the relief of Insolvent Debtors: Be it therefore enacted, &c., That all

Such Traders as are mentioned in the Preamble, to have the benefit of the Act 8 Vict. cap. 48.

such Traders coming within the description above, in the preamble to this Act set forth, shall be entitled to avail themselves of the benefit of the Act of this Province, passed in the eighth year of the Reign of Her Majesty Queen Victoria, and intituled, *An Act for the relief of Insolvent Debtors in Upper Canada, and for other purposes therein mentioned*, on their taking the steps and proceedings therein set forth for obtaining their discharge.

Effect of the Final Order in such cases.

II. And be it enacted, That, as to such persons, the Order called the Final Order, in the said last mentioned Act, shall, in addition to its effect as mentioned

the premises of
for him, and
adant, or such
and may, if
remises of the
or the purpose
and shall make

C. W.)

DEBTORS' ACT, AND
PERSONS THEREIN

August, 1851.]

instances of
the Bankrupt
of a number of
or the Assign-
ts of all their
such as might
pose of avoid-
ings in Bank-
said Creditors,
; and in some
such complete
some of their
parties to such
negligence on
parties are pre-
of the Act of
of Insolvent
&c., That all
cription above,
h, shall be en-
nefit of the Act
th year of the
ed, *An Act for*
and for other
steps and pro-
charge.

to such persons,
n the said last
to its effect as
mentioned

mentioned in the fourth section of the said Act, operate as a discharge of all debts due up to the date of the said Assignment, in each case respectively, as fully and completely, and to the same extent, as if such Trader had obtained a Certificate under the fifth-ninth section of the Act relating to Bankrupts, passed in the seventh year of the Reign of Her Majesty, and intituled, *An Act to repeal an Ordinance of Lower Canada, intituled, 'An Ordinance concerning Bankrupts, and the Administration and Distribution of their Estate and Effects,' and to make provision for the same object throughout the Province of Canada.*

7. Vict., c. 10.

III. Provided always, and be it enacted, That this Act shall be construed to apply, and be in force only in that part of this Province formerly Upper Canada.

Extent of Act

SEIZURE AND SALE OF SHARES ACT.

CAP. XXIII.

AN ACT TO PROVIDE FOR THE SEIZURE AND SALE OF SHARES IN THE CAPITAL STOCK OF INCORPORATED COMPANIES.

[Assented to, 30th May, 1840.]

WHEREAS it is expedient to make better provision for the Seizure and sale of Shares and Dividends of the Stockholders of all incorporated Companies: Be it therefore enacted, &c., That all Shares and Dividends of Stockholders in Incorporated Companies shall be held, considered and adjudged to be personal property, and shall be liable as such to *bonâ fide* creditors for debts, and may be attached, seized and sold under Writs of Execution issued out of any of Her Majesty's Courts in this Province, in like manner as other personal property may be sold under execution; and that whenever any such shares shall have been sold under a Writ of Execution, the Sheriff, by whom such Writ shall have been executed, shall, within ten days after such sale, serve upon such Incorporated Company, at some place where service of process upon such Company may be made, an Attested Copy of such Writ of Execution, with his Certificate endorsed thereon, certifying to whom the sale of the said Shares under the said Writ of Execution has been by him made, and the person or persons who shall have purchased such Share or Shares so sold under such Writ of Execution; and the person or persons so purchasing shall thereafter be held and considered as Stockholder or Stockholders

Preamble.

Shares and dividends of Stockholders in incorporated Companies held to be personal property and liable to be seized and sold under execution.

Mode of proceeding to such sale, &c.

Stockholders of the said Shares, and shall have the same rights and be under the same obligations as if he or they had purchased the said shares from the proprietors thereof, in such form as may be by law provided for the transfer of Stock in such Company; and it shall be the duty of the proper Officer of the Company to enter such sale as a transfer in the manner by law provided.

Sheriff to serve a copy of the Writ on the Company, with notice of seizure.

II. And be it enacted, That it shall be the duty of the Sheriff to whom any such Writ of Execution, as aforesaid, shall be addressed, on being informed on behalf of the Plaintiff that the Defendant

has Stock in any Incorporated Company, and that such Sheriff is required to seize such stock, forthwith to serve a copy of such Writ on such Company, with a notice that all the Shares which the Defendant may have in the Stock of such Company are seized accordingly; and from the time of such service no transfer of such Stock by the Defendant shall be valid, unless or until the said seizure shall be discharged; and every

Stock not to be transferred while under seizure, and sale under seizure to include all Dividends, &c.

such seizure, and any sale made under the same, shall include all Dividends, Premiums, Bonuses, or other pecuniary profits upon the Shares seized, which shall not after such notice as aforesaid, be paid by

such Company to any party except the party to whom the Shares shall be sold by the Sheriff, unless and until the seizure be discharged, on pain of paying the same twice.

Provision for the case of the Company having more than one place where service of process may legally be made upon them.

III. Provided always and be it enacted, That if the Company shall have more than one place where service of process may legally be made upon them, and there be some place where transfers of stock may be notified to and entered by the Company so as to be valid as regards the Com-

pany, or where any Dividends or profits as aforesaid, on Stock may be paid, other than the place where service of such notice shall have been made, such notice shall not affect any transfer or payment of Dividends or profits duly made and entered at any such other place, so as to subject the Company to pay twice, or to affect the rights of any bona fide purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of such service by Post from the place where it was made to such other place, which notice it shall be the business of the Company to transmit by Post to such other place.

Shares declared to be personal property found by the Sheriff.

IV. And be it enacted, That the Shares in the Stock of any Company shall be held to be personal property, found by the Sheriff in the place where notice of the seizure thereof shall be made

as aforesaid.

Saving of all remedies at common law.

V. And be it enacted, That nothing in this Act shall be construed to weaken the effect of any remedy which such Plaintiff, as aforesaid, might, without

the same rights
y had purchased
uch form as may
such Company;
the Company to
aw provided.

shall be the duty
Writ of Execu-
essed, on being
that the Defend-
d that such She-
ve a copy of such
ne Shares which
h Company are
service no trans-
lid, unless or un-
rged; and every
under the same.
iums, Bonuses, or
arreseized, which
resaid, be paid by
whom the Shares
he seizure be dis-

t enacted, That if
than one place
legally be made
place where trans-
o and entered by
regards the Com-
said, on Stock may
ch notice shall have
ansfer or payment
at any such other
vice, or to affect
fter the expiration
t for the transmis-
the place where it
it shall be the bus-
such other place.
t the Shares in the
held to be perso-
heriff in the place
proof shall be made

nothing in this Act
the effect of any
as aforesaid, might,
without

without this Act, have had against any Shares of such Stock as aforesaid, by *saisie arrêt* attachment or otherwise, but on the contrary, the provisions of the three next preceding sections shall apply to such remedy in so far as they can be applied thereto.

VI. And be it enacted, That all Corporations, established for the purposes of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed Incorporated Companies for the purposes of this Act, although they be not called Companies in the Act or Charter incorporating them.

What shall be
deemed incor-
porated Com-
panies.

ABSENT DEFENDANTS ACT, (C. W.)

C A P. X.

AN ACT TO PROVIDE A REMEDY AGAINST ABSENT DEFENDANTS,
CANADA WEST.

[Assented to, 2d August, 1851.]

WHEREAS there are by law no means provided for taking proceedings against parties who are absent from Upper Canada, unless by process under the Absconding Debtors' Act; and whereas it is desirable that the law should be amended in that respect: Be it therefore enacted, That proceedings may be commenced in any action or suit in any of the Superior Courts of Law and Equity in Upper Canada, against any person who having resided in Upper Canada is absent therefrom, having contracted debts or liabilities while in Upper Canada, or having real or personal property therein, in the same manner and by the same process as if such person was a resident inhabitant therein.

Preamble.

Proceedings may
be commenced
against debtors
absent from Ca-
nada West.

II. And be it enacted, That the first process or proceeding in any such action or suit shall be served on such absent person, either personally in whatever country out of Upper Canada such person may be residing or living, or upon any agent or person having charge of any property real or personal of such person in this Province, and such service when out of Upper Canada, may be proved by affidavit or declaration to be taken before any person having competent authority to take the same in the country where the same shall be taken, such authority being certified by the Mayor or Chief Magistrate, or a Notary Public in the place where the same shall be taken, and such service shall be deemed good service, whether it shall be personal or on such agent or person in charge as aforesaid, only after the

First process
may be served
upon Defendant
in any country
out of Canada
West.

same.

same shall have been allowed by the Court from whence such process or proceeding shall have issued, or a Judge in Chambers: Provided always, that such service may nevertheless be proved by affidavit or declaration to be taken in Upper Canada before a Commissioner appointed to take affidavits in any of the Superior Courts of Upper Canada.

All proceedings to be taken in office of Court at Toronto.

III. And be it enacted, That all the proceedings in any such action or suit at law shall be taken in the office of the Court wherein the same shall be commenced in the County where such process shall be issued, and appearance shall be entered at such office as follows: where the process has been served upon any agent, or person in charge as aforesaid in this Province, or on the defendant personally in Lower Canada, within one month after such service; where such service has been made personally in any part of North America out of this Province, within three months after such service; and where the service has been made in any country out of North America, within twelve months after such service; and on the copy of the process or proceeding served shall be endorsed a notice to appear in the form in the schedule hereto, and if such person shall not appear, then after the expiration of the time for such appearance and the allowance of such service as aforesaid, the plaintiff in such action or suit may enter an appearance for such person, and after any appearance entered may proceed to decree judgment and execution thereon, in the same manner and times as in ordinary cases of personal service of process; and service of all papers and proceedings after process shall be sufficient by affixing a copy thereof in such office from which such process has issued.

Judge in Chambers may grant time to Defendant to appear.

IV. And be it enacted, That in any such action or suit, the Court in which such action or suit is brought, or any Judge in Chambers, may grant any such time to the defendant for appearing, pleading, or taking any other step in the defence of such action or suit, as to such Court Judge shall seem meet.

Conditions on which a judgment may be enforced.

V. And be it enacted, That whenever any judgment or decree shall be rendered in favour of any plaintiff or party on service of process on any agent or person in charge of property as aforesaid, no such decree or judgment shall be enforced by any process or proceeding, until the plaintiff or party obtaining such decree or judgment, or his attorney or agent, shall file an affidavit in the cause, that he verily believes that such decree or judgment is just, and also shall give a bond with two sufficient sureties, and to an amount to the satisfaction of the Master, Clerk or Registrar of such Court, conditioned for a re-hearing of the action or suit in which such decree or judgment has been rendered, provided

whence such
in Chambers :
ess be proved
anada before
of the Superior

the proceed-
law shall be
erein the same
ocess shall be
ffice as follows :
nt, or person in
endant person-
such service ;
in any part of
ee months after
made in any
nths after such
ceeding served
in the schedule
a after the ex-
allowance of
tion or suit may
ny appearance
ecution thereon,
ases of personal
nd proceedings
thereof in such

any such action
action or suit is
bers, may grant
eading, or taking
suit, as to such

enever any judg-
in favour of any
process on any
resaid, no such
process or pro-
g such decree or
a affidavit in the
e or judgment is
ient sureties, and
Clerk or Regis-
of the action or
n rendered, pro-
vided

vided such re-hearing shall be ordered by the Proviso.
Court in which such suit or action was brought, at any time
within two years from the rendering of such decree or judgment.

VI. And be it enacted, That a re-hearing shall
be allowed to any defendant who has not been
personally served with process by order of the
Court in which the action or suit was brought, upon such terms
as to giving security to pay or answer the decree or judgment
that may be rendered on a re-hearing or otherwise, as such
Court shall direct : Proviso. Provided always, that such re-
hearing is applied for by such defendant within two years from
the time of decree or judgment rendered.

Defendant not
personally served
may have a re-
hearing.

SCHEDULE.

NOTICE TO PROCESS.

To C. D., the Defendant.

Take notice, that your appearance to this Writ must be en-
tered in Her Majesty's Court of Queen's Bench, (Common Pleas
or Chancery, *as the case may be,*) at the office of such Court at
Toronto, or at the office of the Deputy Clerk of the Crown of
the County or United Counties of—(*as the case may be*) within
(*the time mentioned in the Act, according to the country in which
the service has been affected,*) from the service hereof, and in de-
fault of such service, A. B., the within plaintiff, will enter an
appearance for you, and proceed thereon. (*And also, where the
service is on an agent or party in charge of property,*) and also
take notice, you, E. F., (*agents name*) are served with this pro-
cess as the Agent or person in charge, in this Province, of some
property, real or personal, of the within named Defendant, C. D.,
and you are hereby required to enter an appearance for him as
aforesaid.

G. H.,
Plaintiff's Attorney.

ABSENT DEFENDANTS, (DECLARATORY ACT,) C. W.

C A P. L X X X V I I I.

AN ACT TO EXPLAIN AN ACT INTITULED, AN ACT TO PROVIDE A REMEDY
AGAINST ABSENT DEFENDANTS.

[Assented to, 22d April, 1853.]

WHEREAS the wording of the first Section
of an Act of the Legislature of this Pro-
vince, passed in the Session held in the fourteenth and fifteenth
years

Preamble.

14 & 15 Vict. c. 10. years of Her Majesty's Reign, and intituled, *An Act to provide a Remedy against Absent Defendants*, is such as to have caused doubts to arise as to the meaning of the said Act, and it is expedient to declare and explain the meaning of the same: Be it therefore declared and enacted, &c., That the said Section of the said Act was intended to refer and does refer to cases of persons having real or personal property in Upper Canada, although such persons may not have resided in Upper Canada.

APPRENTICES AND MINORS ACT, (C. W.)

C A P. X I.

AN ACT TO AMEND THE LAW RELATING TO APPRENTICES AND MINORS.

[Assented to, 2d August, 1851.]

Preamble.

WHEREAS there is no Statute in force in that part of this Province called Upper Canada, to provide for binding Apprentices for a less term than seven years; and whereas it would promote the general interest of society if shorter terms of Apprenticeship were made legal, and the law relating to Apprentices more clearly defined: Be it therefore enacted, &c., That from and after the passing of this Act, it shall and may be lawful for any parent, guardian, or other person having the care or charge of any Minor, not under the age of fourteen years, with the consent of such Minor, to put and bind the same as an Apprentice by written Indenture, to any Master Mechanic, Farmer, or other person carrying on any trade or calling for any term not to extend beyond the minority of such Apprentice.

Power of the Mayor or Chief Magistrate to bind orphans, &c., as apprentices.

II. And be it enacted, That in any City or Incorporated Town, it shall and may be lawful for the Mayor, Recorder, or Police Magistrate, and in any County or Union of Counties, it shall and may be lawful for the Chairman of and at any Court of General Quarter Sessions of the Peace, to put and bind as aforesaid, to any Master Mechanic, Farmer, or other person as aforesaid, with the consent of such person, and with the consent of the Minor, any Minor who may be an orphan, or who may be deserted by his or her parents or guardian, or whose parents or guardian may for the time be committed to any common gaol or house of correction, or any Minor who may be dependant upon any public charity for support; and such Apprentice and the Master of such Apprentice shall severally be held in the same manner as if such Apprentice had been bound by his or her parent.

uled, *An Act*
ts, is such
ning of the
the meaning
d, &c., That
s intended to
ersons having
such persons

, (C. W.)

AND MINORS.

just, 1851.]

e in force in
called Upper
ss term than
neral interest
e made legal,
defined: Be it
and after the
be lawful for
on having the
ourteen years,
he same as an
er Mechanic,
alling for any
prentice.

ny City or In-
be lawful for
istrate, and in
shall and may
rt of General
s aforesaid, to
aforesaid, with
of the Minor,
be deserted by
guardian may
house of cor-
pon any public
Master of such
anner as if such

III

III. And be it enacted, That if any Master of any such Apprentice shall die, such Apprentice shall by Act of Law, be transferred to the party, if any such there be, who shall continue the establishment of the deceased Master, and such party shall hold such Apprentice upon the same terms as his Master if alive would have done, and any Master may legally transfer his Apprentice to any person competent to receive or take any Apprentice; Provided always, that no Master shall transfer his Apprentice except to another carrying on the same kind of business as himself.

If the master die, apprentice to be transferred to his successor in the business, &c., apprentices may be transferred.

Proviso.

IV. And be it enacted, That every Master shall provide suitable board, lodging and clothing, or such equivalent therefor as may be mentioned in the Indenture, to his Apprentice during the term of his Apprenticeship, and shall also properly teach and instruct, or cause him to be taught and instructed in the art and mystery of his trade or calling.

Duty of masters towards apprentices.

V. And be it enacted, That every Apprentice shall, during the term of his Apprenticeship, faithfully serve his Master, shall obey all lawful and reasonable commands, and shall not absent himself from his service, day or night without his consent.

Duty of apprentices.

VI. And be it enacted, That any Justice of the Peace, Mayor, or Police Magistrate, shall have power, on complaint made before him on oath, by any Apprentice against his Master for any refusal of necessary provisions, misusage, cruelty or ill-treatment, after having duly summoned such Master to appear before him to answer to the complaint, to hear and determine such complaint, and on conviction to levy such fine on the offender not exceeding the sum of Five Pounds currency, as to such Justice, Mayor, or Police Magistrate may seem meet, and to issue distress to collect such fine and the necessary costs, and in default of satisfaction of such distress, to imprison the offender in any common gaol for a period not exceeding one month. And any of the said Justices, Mayor, or Police Magistrate shall have power also, on complaint of any Master against his Apprentice for refusal to obey his commands, for waste or damage to property, or for any other improper conduct, to cause such Apprentice to come before him, and to hear and determine such complaint, and, on conviction, to order such Apprentice to be imprisoned in any common gaol or house of correction for any time not exceeding one month.

Justices, &c., may hear and determine complaints by apprentices against their masters.

And by masters against their apprentices.

VII. And be it enacted, That if any Apprentice shall absent himself from his Master's service or employment before the time of his Apprenticeship

Liability of apprentice deserting his master's service.

shall

shall have expired, he shall at any time thereafter, wherever he shall be found in this Province, be liable and may be compelled to serve his Master for so long a time as he shall have so absented himself from his service, unless he shall make satisfaction to his Master for the loss he shall have sustained by his absence from his service. And in case such Apprentice shall

How complaints may be heard, &c.

refuse to serve as hereby required, or to make such satisfaction to his Master as aforesaid, or in case any such Apprentice refuse to obey the lawful commands of his Master, or in any other way or manner refuse to perform his duty to his Master, or neglect to perform the same, such Master, or his overseer or agent, may complain on oath to any Justice of the Peace, Mayor, or Police Magistrate, either in the County, City or Town where such Master resides, or in any County, City or Town where such absconding Apprentice may be found; and any such Justice, Mayor, or Police Magistrate may, by Warrant under his hand and seal, cause such Apprentice to be apprehended and brought before him, or some other Justice of the Peace, and upon hearing the complaint, may determine what satisfaction shall be

Committal of apprentice in certain cases, &c.

made by such Apprentice to his Master: And in case such Apprentice shall not give or make such satisfaction immediately, or if the satisfaction be of such a nature as not to allow of immediate performance, give sufficient surety to make such satisfaction, then in either case it shall be lawful for such Justice, Mayor, or Police Magistrate to commit such Apprentice to the common gaol, or House of Correction of such County, City or Town, for any time not exceeding

Proviso.

three months: Provided always, that such imprisonment shall not release such Apprentice from his obligation to make up his lost time to his Master as aforesaid: And provided also, that where such Apprentice shall not

Proviso.

have left this part of the Province called Upper Canada, or having left it, shall return thereto, such Master shall not proceed under this Act against such Apprentice, except within three years next after the expiration of the term for which such Apprentice shall have contracted to serve, or next after his return as the case may be.

Penalty for employing or harbouring absconding apprentice.

VIII. And be it enacted, That any person who shall knowingly harbour or employ any absconding Apprentice, shall be liable to pay to the Master of such Apprentice the full value of such Apprentice's labour, which value shall be deemed and taken to be the value which such Master would have received from the labour and service of such Apprentice if he had continued faithfully in his service, which may be recovered in any Court having jurisdiction where such Apprentice may be employed, or where his Master may reside.

Indenture may be avoided if ap-

IX. And be it enacted, That if any Apprentice shall become insane, or be convicted of any crime

wherever he
compelled to
so absented
action to his
bsence from
entice shall
or to make
se any such
his Master,
s duty to his
or his over-
of the Peace,
ity or Town
ity or Town
and any such
ant under his
hended and
ce, and upon
tion shall be
ster: And in
or make such
tisfaction be
rmance, give
either case it
Magistrate to
ouse of Cor-
not exceeding
at such im-
his obligation
id: And pro-
ice shall not
nada, or hav-
not proceed
within three
which such
ext after his
y person who
y absconding
he Master of
labour, which
o which such
ervice of such
ervice, which
where such
r may reside.
y Apprentice
of any crime
of

of the degree of felony, or be sentenced to the ^{prentice becomes} Provincial Penitentiary, or abscond, his Master may avoid the ^{insane, &c.} indenture of Apprenticeship, from the time he shall give notice in writing of his intention so to do to the other parties to the indenture, either by serving them with such notice or copy thereof, or by inserting the same in some newspaper of the County or City where such Master's establishment is situated, or in the *Canada Gazette*: Provided always, such ^{Proviso.} Master make such election within one month after the happening of the event upon which such right of election arises, but not otherwise.

X. And be it enacted, That the provisions of a ^{Act 13 & 14 Vict.} certain Act of the Parliament of this Province, ^{c. 54, to apply.} passed in the Session thereof held in the thirteenth and fourteenth years of the reign of our Sovereign Lady Queen Victoria, intituled, *An Act to extend the right of appeal in certain cases in Upper Canada*, shall be held to extend and apply to all cases arising under this Act, or having any reference thereto.

XI. And be it enacted, That nothing in this Act shall be construed to deprive the Court of Quarter Sessions of primary jurisdiction over ^{Act not to affect} offences committed against this Act, but that whenever the said ^{jurisdiction of} Court of Quarter Sessions shall be called upon to adjudicate in ^{Q. S.} any matter or case arising under this Act, in addition to the powers now possessed by such Court, it shall have power and discretion in cases where it shall appear necessary for the full and perfect administration of justice, ^{Additional pow-} to annul any Apprenticeship, and compel the parties ^{ers given to that} to the indenture of Apprenticeship to deliver the same up ^{Court.} to be cancelled, and make such further order as the circumstances may require.

XII. And be it enacted, That all fines imposed ^{Application of} and collected under this Act shall be paid to the ^{fines.} Chamberlain of the City, or to the Treasurer of the County or Town respectively, where the offence was committed.

XIII. And be it enacted, That the word ^{Interpretation} "Master," when it occurs in this Act, shall include ^{Clause.} any person or number of persons, male or female, carrying on business singly or in copartnership; and the words importing the singular number or masculine gender, shall include several persons, and males as well as females, unless there be something in the subject inconsistent with such interpretation.

XIV. And be it enacted, That any Minor over the age of sixteen years having no parent or legal guardian, or who shall not reside with his parent or guardian, who shall, after the passing of this ^{Minors may bind} ^{themselves to} ^{labour in certain} ^{cases.}

Act, enter into any engagement written or verbal to perform any service or work, shall be subject to the same legal provisions, and have the same benefit as if such Minor had been of legal age at the time of making such agreement.

Extent of Act.

XV. And be it enacted, That this Act shall extend only to Upper Canada.

MASTERS AND SERVANTS, ETC., ACT, (C. W.)

CAP. XXIII.

AN ACT TO REGULATE THE DUTIES BETWEEN MASTER AND SERVANT, AND FOR OTHER PURPOSES THEREIN MENTIONED, CANADA WEST.

[Assented to, 28th July, 1847.]

Preamble.

WHEREAS no Statute is in force to regulate the duties between Masters and Servants or Labourers in that part of the Province formerly Upper Canada; And whereas it would tend to promote the general interests of society if such duties were better defined and understood: Be it therefore enacted, &c., That from

Verbal as well as written agreements between Master and Servant to be binding.

and after the passing of this Act, all agreements or bargains between Masters and Servants or Labourers, for the performance of any duties or service of whatsoever nature, whether such agreement be verbal or written, shall upon due proof, be binding on each party for the due fulfilment thereof; Provided always, that such verbal agreement shall not exceed the term of one year.

Proviso.

Persons leaving the employ of their master or refusing to work, &c., after entering into an engagement and contrary thereto, shall be liable to punishment.

II. And be it enacted, That after any such engagement as contemplated by this Act shall have been entered into, any person having thereby engaged to perform any service or work, and who shall, during the period of such engagement, and after the commencement of such employment, refuse to go to work, or who shall (without permission or discharge) leave the employ of the party whom he was engaged to serve, or who shall refuse to obey the lawful commands of the person under whose direction such services are to be performed or who shall neglect the service or injure the property of such employer, shall (upon the complaint of such employer, or any person in charge under him) be liable to punishment for every such offence in the manner hereinafter provided.

perform any
al provisions,
een of legal

Act shall ex-

, ACT,

SERVANT, AND
A WEST.

July, 1847.]

e to regulate
and Servants
erly Upper
e general in-
d and under-
. That from
agreements
Servants or
ny duties or
r such agree-
be binding on
roof; Provid-
ent shall not

any such en-
ct shall have
thereby en-
and who shall,
nt, and after
ent, refuse to
permission or
was engaged
amands of the
be performed
erty of such
loyer, or any
ent for every

III.

III. And be it enacted, That if any tavern keeper, boarding-house keeper or other person, shall induce or persuade any servants or labourers to confederate for demanding extravagant or high wages, and prevent their hiring, then upon due proof of the offence, such tavern keeper shall forfeit his license, in addition to any fine, and such boarding-house keeper or other person shall be subject to fine or imprisonment, as hereinafter provided.

Tavern keepers inducing servants to confederate for demanding higher wages, to be also subject to fine, &c.

IV. And be it enacted, That the wearing apparel of any servant or labourer shall not be kept by any tavern keeper or boarding-house keeper in pledge for any expenses incurred to any greater amount than one pound tenshillings currency, on the payment or tender of which sum, or of any lesser sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer: Provided always, that this shall not apply to other property of such servant or labourer.

Tavern keepers, &c., not to keep wearing apparel of servants in pledge for any amount above £1 10s.

Proviso.

V. And be it enacted, That it shall be the duty of any one or more of Her Majesty's Justices of the Peace for that part of this Province which formerly constituted the Province of Upper Canada to receive the complaints upon oath of parties complaining of any contravention of the preceding provisions of this Act, and to cause all parties concerned to appear before him or them, and to hear and determine the same in a summary and expeditious manner, and to punish parties found guilty of the offence alleged by fine or imprisonment, allowing such costs as may be legal and just, and all fines imposed under this Act shall be paid to the treasurer of the County, Town, or City in which such conviction may be had, to be applied to the general uses of such County, Town or City respectively: Provided always, that no Justice or Justices shall impose any fine exceeding five pounds, and no imprisonment shall exceed one month, nor be less than one day.

Duty of Justices of the Peace on receiving complaints against parties for contravention of this Act.

Costs.

Proviso.

VI. And be it enacted, That in every case of a summary conviction under this Act where the sum which shall be forfeited, or which shall be imposed as a penalty by the Justice, shall not be paid either immediately after the conviction or within such period as the Justices shall at the time of conviction appoint, it shall be lawful for the convicting Justice to commit the offender to the Common Jail of the County where such conviction shall have been had, there to be imprisoned for the time limited by such conviction.

Justices of the Peace may commit offenders to Jail, if the fine imposed be not paid.

VII.

Persons contra-
vening the pre-
ceding sections
may be punished
in any County in
which they shall
be found.

County whether such County be or be not that in which his employer resides, or in which the contract of service was entered into.

Justices of the
Peace may like-
wise hear com-
plaints by the
servants against
the employer for
misusage, non-
payment of
wages, &c., and
may determine
the same.

VIII. And be it enacted, That it shall and may be lawful for any one or more such Justices, upon oath of any such servant or labourer against his master or employer concerning any misusage, refusal of necessary provisions, cruelty, ill-treatment or non-payment of wages, to summon such master or employer to appear before him or them at a reasonable time to be stated in such summons and he or they or some other Justice or Justices shall, upon proof on oath of the personal service of such summons, examine into the matter of such complaint, whether such master or employer shall appear or not, and upon due proof of the cause of complaint, he or they may discharge such servant or labourer from his service or employment, and direct the payment to him of any wages found to be due, not exceeding the sum of ten pounds, and the said Justice or Justices shall and may make such order for payment of the said wages as to him or them shall seem just and reasonable with costs, and in case of non-payment of the same, together with the costs, for the space of twenty-one days after such order shall have been made, it shall and may be lawful for such Justice or Justices to issue his or their warrant of distress for the levying of such wages, together with the costs of conviction and of such distress.

Persons convicted
or against whom
orders shall be
made, may appeal
to the General
Quarter Sessions.

IX. And be it enacted, That any person who shall think himself aggrieved by any such conviction or order for the payment of wages, or order for the dismissal from service or employment, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or order for the County wherein the conviction or order shall be had; Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof within three days after such conviction, and seven clear days at the least before such Sessions, and shall also, in the case of such conviction, either remain in custody until the Sessions, or enter into a recognizance, with two sufficient sureties before a Justice of the Peace, and in the case of such order shall enter into a like recognizance conditioned personally to appear at the said Sessions,

Proviso: Notice
and security to
be given.

ap. 23, 1847.

y person of
ions of this
punished in
und, and the
ted in such
n which his
e was enter-

all and may
ustices, upon
r against his
nissuage, re-
ill-treatment
such master
or them at a
ch summons
ll, upon proof
mine into the
mployer shall
complaint, he
m his service
f any wages
, and the said
for payment
just and rea-
the same, to-
ays after such
awful for such
f distress for
of conviction

y person who
r such convic-
ges, or order
loyment, may
ssions, which
e day of such
conviction or
such person
ice in writing
matter thereof
clear days at
e case of such
ssions, or enter
fore a Justice
ater into a like
the said Ses-
sions,

12 Vict. MASTERS AND SERVANTS, ETC., ACT, (C. E.) Cap. 55, 1849.

sions, and to try such appeal and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance being entered into, the Justice before whom the same shall be entered into, shall liberate such person if in custody; and the Court at such Sessions shall hear and determine the matter of the appeal, and shall make such order therein with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction; or enforce the order for payment of wages or of dismissal from service, and to pay such costs as shall be awarded, and shall, if necessary, issue process for carrying such judgment into effect.

Court of Q. S.
empowered to
hear and deter-
mine on such
appeal.

X. And be it enacted, That the word "party," whenever it occurs in this Act, shall include any person or persons, body or bodies politic or corporate, and that all words importing the singular number or the masculine gender only, shall include several persons, matters or things of the same kind as well as one person, matter or thing, and females as well as males, unless there be something in the subject or context inconsistent with such interpretation.

Interpretation of
certain words.

XI. And be it enacted, That this Act shall apply to that part of this Province which formerly constituted the Province of Upper Canada.

To apply to Can-
ada West only.

MASTERS AND SERVANTS, &C., IN COUNTRY PARTS ACT, (C. E.)

C A P. L V.

AN ACT TO AMEND AN ACT RELATING TO MASTERS AND SERVANTS IN THE COUNTRY PARTS OF CANADA EAST.

[Assented to, 30th May, 1849.]

WHEREAS it is expedient to repeal the Act hereinafter mentioned, and to make better provision for the decision of differences arising in the country parts of Lower Canada, between Masters and Mistresses, and their Apprentices, Servants, Journeymen or Labourers: Be it therefore enacted, &c., That the Act of the Legislature of Lower Canada, passed in the sixth year of the Reign of His late Majesty King William the Fourth, and intitled, *An Act for the more easy and less expensive decision of differences*

Preamble.

Act of C. E., 6 W.
4 c. 27, repealed.

differences between Masters and Mistresses and their Servants, Apprentices and Labourers, in the country parts of this Province, shall be and is hereby repealed.

To what places
this Act shall
apply.

II. And be it enacted, That this Act shall apply to those parts of Lower Canada which are not within the Cities of Quebec or Montreal, or the Town of Three Rivers, and to no other part of this Province.

Punishment of
Servants disobey-
ing their Mas-
ters, &c.

III. And be it enacted, That any and all Apprentices or Servants of either sex, or Journeymen or Labourers bound by Act of Indenture or written contract or agreement, and all Servants of either sex, or Journeymen or Labourers verbally engaged before one or more witnesses for one month or for any longer or shorter period, who shall be guilty of ill behaviour, refractory conduct, or idleness, or of deserting from their service or duties, or of absenting themselves by day or night without leave, from their said service, or from the house or residence of their employers, or who shall refuse or neglect to perform their just duties, or to obey the lawful commands which shall be given them by their Masters or Mistresses, or of any unlawful act that may affect the interest of their said Masters or Mistresses, or who shall be guilty of dissipating their Masters' or Mistresses' property or effects,—shall be liable, upon conviction before any Justice of the Peace, to a penalty not exceeding Five Pounds currency, or to an imprisonment not exceeding thirty days, for each and every offence, or both.

What warning
shall be given,
&c., on either
side.

IV. And be it enacted, That every Domestic Servant, Journeyman or Labourer, engaged for a fixed period by the month or for a longer space of time, and not by the piece or job, who shall intend to quit the service in which he or she shall be during that time engaged, shall give or cause to be given notice of such intention, at least one month before the expiration of such agreement; and if any of the said persons shall quit the service without giving such notice, he or she shall be considered as having deserted from the said service, and be punished accordingly; and every Master, Mistress or Employer, shall give to his or her Servants, Journeymen, or Labourers, like notice of his or her intention no longer to keep or employ them after the expiration of their time of service; Provided always, that every Domestic Servant, Journeyman and Labourer, engaged for a time, may be discharged by his or her Master, Mistress or employer, at or before the expiration of his or her engagement, without notice, upon full payment of the wages which he or she would have received for the full time of his or her service; if the time shall be expired, the person so discharged

Proviso: servants
may be discharged
on paying wages
for the time of
warning.

without

*their Servants,
this Province,*

act shall apply
which are not
own of Three

and all Ap-
r Journeymen
ure or written
x, or Journey-
or more wit-
r period, who
ct, or idleness,
resenting them-
said service,
or who shall
r to obey the
their Masters or
et the interest
ll be guilty of
esses' property
re any Justice
unds currency,
s, for each and

very Domestic
engaged for a
longer space of
end to quit the
e engaged, shall
on, at least one
nd if any of the
such notice, he
om the said ser-
aster, Mistress
Journeymen, or
nger to keep or
f service; Pro-
Servant, Jour-
a time, may be
Mistress or em-
n of his or her
t of the wages
ll time of his or
on so discharged
without

12 Vict. **MASTERS AND SERVANTS, ETC., ACT, (O. E.)** Cap. 55, 1840.

without notice shall be entitled to wages for the full time included between the day when such notice should have been given, and the day of his or her discharge as aforesaid.

V. And be it enacted, That any Master or Mistress who may discharge their Servant without paying their wages as aforesaid, shall incur a penalty not exceeding Five Pounds, and the Justice of the Peace may allow the Servant such portion of the fine as he shall consider a reasonable compensation for the injury incurred by such Servant, and shall moreover condemn the said Master or Mistress to pay to the said Servant the amount of wages to which he may be entitled.

Penalty for dis-
charging servants
without payment
of wages as afore-
said.

VI. And be it enacted, That any and every Domestic Servant, Journeyman, or Labourer, engaged by the month or longer space of time, or by the piece or job, who shall desert or abandon the service or job for which he, she or they shall have been engaged, before the time agreed upon, shall for each and every offence be liable to a fine or penalty not exceeding Five Pounds currency, or to an imprisonment not exceeding thirty days, or to both.

Punishment of
servants desert-
ing their work.

VII. And be it enacted, That any and all persons knowingly harbouring or concealing any Apprentice or Servant engaged by written act or agreement, who shall have abandoned the service of his or her Master or Mistress, or instigating or engaging any Apprentice or Servant to abandon such service, or keeping such Servant in his or her service after being informed of the fact, shall be liable to a fine or penalty not exceeding Five Pounds currency, or to an imprisonment not exceeding thirty days, or to both, for each and every offence.

Punishment of
persons harbour-
ing runaway
servants, &c.

VIII. And be it enacted, That all complaints founded upon contravention of any of the four next preceding Sections of this Act, may be heard and determined before any one Justice of the Peace, who may by Warrant or Summons require the attendance of the offender before him, and upon the offender being brought up under Warrant, or if summoned, upon proof of the service of such Summons, may either, in the absence or presence of the offender, determine such complaint in a summary manner, on the oath of any one or more credible witness or witnesses to be sworn before him, and may, if the offender be convicted, sentence such offender to the penalty or imprisonment or both hereby imposed for the offence, and may commit such offender to Gaol accordingly, and levy such penalty by Warrant of distress and sale of the offender's goods and chattels; Provided always, that the Warrant of distress shall not issue if sufficient security be offered

How complaints
under the four
preceding sec-
tions shall be
heard and deter-
mined.

Proviso.

or the payment of the fine and costs within a period of fifteen days.

As to complaints
by servants
against their
masters, &c.

IX. And be it enacted, That any Apprentice, Domestic Servant or Journeyman, bound or engaged as aforesaid, having any just cause or complaint against his or her Master, Mistress or Employer, for any misusage, defect of sufficient wholesome provisions or food, or for cruelty or ill-treatment of any kind, may cause such Master or Mistress to be summoned and to appear before one of the nearest Justices of the Peace to the residence of the party complained against, to answer the complaint to be preferred against him, her or them, by such Apprentice, Domestic

Punishment of
offenders.

Servant or Journeyman; and any and every Master or Mistress, convicted upon such complaint of any offence aforesaid, towards his, her or their Apprentice, Domestic Servant or Journeyman, shall upon each and every conviction be liable to a penalty not exceeding five pounds currency, or to an imprisonment not exceeding thirty days; such complaint to be heard and determined, and such penalty levied, or such imprisonment enforced in the manner provided by the next preceding Section of this Act.

Justices may
annul the agree-
ment between
Master and Ser-
vant, in certain
cases.

X. And be it enacted, That upon complaint by any Master, Mistress or Employer, against his, her or their Apprentice, Servant or Journeyman, or by any Apprentice, Servant or Journeyman, against his, her or their Master, Mistress or Employer, of continued mis-conduct or mis-usage, and of repeated violations of the ordinary and established duties of the parties towards each other, or of incapacity to perform the services for which they are hired, any two Justices of the Peace may at a special sitting, upon due proof of the facts, annul the contract or agreement, whether written or verbal, by which such Master, Mistress or Employer, and such Apprentice, Servant or Journeyman may be bound to each other.

Application of
penalties.

XI. And be it enacted, That all penalties imposed by this Act shall be paid to the Municipality having jurisdiction over the Parish or Township wherein the offence is committed, except as hereinbefore provided.

Limitation of
prosecutions.

XII. And be it enacted, That every prosecution for any offence against the provisions of this Act shall be commenced within three calendar months after the offence has been committed, and not after.

y Apprentice,
bound or en-
cause or com-
mistress or Em-
time provisions
d, may cause
appear before
sidence of the
at to be pre-
ice, Domestic
ny and every
on such com-
or their Ap-
upon each and
ng five pounds
thirty days;
etermined, and
ed in the man-
Act.

n complaint by
, against his
Journeyman,
Journeyman,
employer, of con-
violations of
towards each
or which they
special sitting,
or agreement,
er, Mistress or
eyman may be

penalties im-
e Municipality
n wherein the
vided.

every prosecu-
provisions of this
months after the

LAW RESPECTING THE OFFICE OF CORONER, (C. W.)

C A P. L V I.

AN ACT TO AMEND THE LAW RESPECTING THE OFFICE OF CORONER.

[Assented to, 24th July, 1850.]

WHEREAS the regulations for holding Coro-
ners' Inquests are insufficient, and it is
desirable that some remedy should be provided therefor:
Be it therefore enacted, &c., That from and after
the passing of this Act, no Inquest shall be holden
on the body of any deceased person by any Coroner
until it has been first made to appear to such Coroner, that there
is reason to believe that such deceased person came to his death
under such circumstances of violence or unfair means, or culpa-
ble or negligent conduct, either of himself or of others, as
require investigation, and not through any mere accident or
mischance: Provided always, that an Inquest shall
be holden on the body of any person who shall die
while in confinement in any Penitentiary.

Preamble.

In what cases
only Inquests
shall be held.

Proviso.

II. And he it enacted, That upon the death of
any prisoner or any lunatic confined in any Lunatic
Asylum, it shall be the duty of the Warden, Gaoler,
Keeper or Superintendent of any Penitentiary,
Gaol, Prison, House of Correction, Lock-up-house or Lunatic
Asylum in which such prisoner or lunatic shall have died,
immediately to give notice of such death to some Coroner of the
County or City in which such death shall have taken place, and
thereupon such Coroner shall proceed forthwith to hold an
Inquest upon the body of such deceased prisoner or lunatic.

Proceedings in
case of the death
of any prisoner,
or person con-
fined in a lunatic
asylum.

III. And be it enacted, That if any person having
been duly summoned as a juror or witness to give
evidence upon any Coroners' Inquest, shall not,
after being openly called three times, appear and
serve as such juror, or appear and give evidence on such
Inquest, every such Coroner shall be empowered to impose such
fine upon any person so making default as he shall think fit, not
exceeding twenty shillings; and every such Coroner shall make
out and sign a certificate, containing the name, residence, trade
or calling of such person so making default, together with the
amount

Penalty on per-
sons summoned
to attend Inquest
and not attend-
ing: and how
enforced.

amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace in the County in which such defaulter shall reside, on or before the first day of the Quarter Sessions of the Peace then next ensuing for such last mentioned County, and shall cause a copy of such certificate to be served upon the person so fined, by leaving it at his residence, within a reasonable time after such Inquest; and all fines and forfeitures so certified by such Coroner shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been part of the fines imposed at such Quarter Sessions:

Proviso.

Provided always, that nothing herein contained shall be construed to affect any power now by law vested in any Coroner for compelling any person to appear and give evidence before him on any Inquest or other proceeding, or for punishing any person for contempt of Court, in not so appearing and giving evidence or otherwise.

Omission of unnecessary words, &c., not to vitiate any inquisition.

IV. And be it enacted, That no Inquisition found upon or by any Coroners' Inquest, nor any judgment recorded upon or by virtue of any such Inquisition, shall be quashed, stayed or reserved for want of the averment therein of any matter unnecessary to be proved, nor for the omission of any technical word or words of mere form or surplusage, and in all such cases and all others of technical defect, it shall be lawful for either of the Superior Courts of Common Law, or any Judge thereof, or any Judge of Assize or Gaol Delivery, if he shall think fit, upon the occasion of any such inquisition being called in question before them or him, to order the same to be amended, and the same shall be amended accordingly.

Coroner may summon a medical practitioner to attend at any Inquest.

V. And be it enacted, That whenever upon the summoning or holding of any Coroners' Inquest, it shall appear to the Coroner that the deceased person was attended at his or her death, or during his or her last illness by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue his order in the form in the Schedule hereunto annexed, for the attendance of such practitioner as a witness at such inquest; and if it shall appear to the Coroner that the deceased person was not attended immediately at or before his or her death by any legally qualified medical practitioner, it shall be lawful for the Coroner to issue such order for the attendance of any legally qualified medical practitioner being at the time in actual practice in or near the place where the death has happened; and it shall be lawful for the Coroner, either in his order for the attendance of the medical witness, or at any time between the issuing of such notice and the termination of the Inquest, to direct the performance of a

post
cont
witr
Prov
befor
death
by th
tition
perso
tion o

VII
appe
any C
not b
of th
witr
major
to na
medic
to issu
tenda
titione
such p
ment
or not
shall r
guilty
exceed
month
both, a

VII.
qualifi
a Cor
order a
receiv
tion, O
tation, w
intestin
Five P
each m
such in
said C
admini
require
the Tre
shall be
tioner c

fine, and shall
in the County
the first day of
suing for such
such certificate
ving it at his
quest; and all
oner shall be
subject to the
ects as if they
arter Sessions:
rein contained
ver now by law
to appear and
proceeding, or
t, in not so ap-

inquisition found
or any judgment
such Inquisition,
ed for want of
y to be proved,
words of mere
d all others of
of the Superior
or any Judge of
on the occasion
before them or
e same shall be

enever upon the
oners' Inquest, it
at the deceased
death, or during
ical practitioner,
order in the form
ndance of such
f it shall appear
not attended im-
legally qualified
Coroner to issue
qualified medical
e in or near the
all be lawful for
ce of the medical
such notice and
performance of a
post

post mortem examination, with or without an analysis of the contents of the stomach or intestines, by the medical witness or witnesses who may be summoned to attend at any Inquest; Provided that if any person shall state upon oath before the Coroner, that in his or her belief the death of the deceased individual was caused partly or entirely by the improper or negligent treatment of any medical practitioner or other person, such medical practitioner or other person shall not be allowed to assist at the *post mortem* examination of the deceased.

Proviso.

VI. And be it enacted, That whenever it shall appear to the majority of the Jurymen sitting at any Coroner's Inquest, that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witness or witnesses who may be examined in the first instance, such majority of the Jurymen are hereby authorized and empowered to name to the Coroner, in writing, any other legally qualified medical practitioner or practitioners, and to require the Coroner to issue his order in the form hereinbefore mentioned, for the attendance of such last mentioned medical practitioner or practitioners, as a witness or witnesses, and for the performance of such *post mortem* examination, as in the fifth section of this Act mentioned, whether such examination has been before performed or not; and if the Coroner, having been so required, shall refuse to issue such order, he shall be deemed guilty of a misdemeanor, and shall be punishable by a fine not exceeding Ten Pounds, or by imprisonment not exceeding one month, in the discretion of the Court trying such offence, or by both, as to the said Court shall seem fit.

A majority of the jurymen may require the Coroner to summon another medical practitioner.

Penalty on Coroner refusing.

VII. And be it enacted, That where any legally qualified medical practitioner has attended upon a Coroner's Inquest, in obedience to any such order as aforesaid of the Coroner, the said practitioner shall receive for such attendance, if without a *post mortem* examination, One Pound Five Shillings; if with a *post mortem* examination, without an analysis of the contents of the stomach or intestines, Two Pounds Ten Shillings; if with such analysis, Five Pounds, together with the sum of One Shilling per mile, for each mile he shall have to travel in going to and returning from such inquest, such travel to be proved by his own oath to the said Coroner, who is hereby authorised and empowered to administer the same; and the coroner is hereby required and commanded to make his order on the Treasurer of the County in which such inquest shall be holden, in favor of such medical practitioner or practitioners, for the payment of such fees or remuneration,

Allowance to such medical practitioner.

Allowance to be paid on Coroner's order, and by whom.

ration, and such Treasurer is hereby required and commanded to pay the sum of money mentioned in such order of the Coroner, to the medical witness therein mentioned, out of any funds he may then have in the County Treasury.

Penalty on
practitioners
summoned and
failing to attend.

VIII. And be it enacted, That where any order for the attendance of any medical practitioner as aforesaid, shall have been personally served upon such practitioner, or where any such order not personally served shall have been received by any medical practitioner as aforesaid, or left at his residence, in sufficient time for him to have obeyed such order, and in every case where such medical practitioner has not obeyed such order, he shall for such neglect or disobedience forfeit the sum of Ten Pounds upon complaint made thereof by the Coroner or any two of the Jury holding such Inquest, before any two Justices of the Peace of the County where the Inquest was held, or the County where such medical practitioner resides; and such two Justices are hereby required, upon such complaint, to proceed to the hearing and adjudication of the same; and if such medical practitioner shall not shew to the said Justices a good and sufficient reason for not having obeyed such order, to enforce the said penalty by distress and sale of the offender's goods as they are empowered to proceed by any Statute for the summary enforcement of any penalty or forfeiture.

How recoverable.

Extent of Act.

IX. And be it enacted, That this Act shall be in force in Upper Canada.

SCHEDULE

REFERRED TO IN SECTION V.

Coroner's Inquest at
upon the body of
By virtue of this my order, as Coroner for
you are required to appear before me and the Jury, at
on the day of
at o'clock, to give evidence touching the cause of
death of (and then add when the witness is
required to make or assist at a post mortem examination) and
make or assist in making a post mortem examination of the body,
with (or without) an analysis, (as the case may be) and report
thereon at the said Inquest.

Signed,

Coroner.

commanded
the Coroner,
by funds he

re any order
actioner as
served upon
onally served
er as afore-
him to have
medical prac-
h neglect or
n complaint
Jury holding
of the County
uch medical
by required,
adjudication
ctioner shall
and sufficient
ce the said
as they are
nary enforce-

Act shall be, in

the Jury, at
the cause of
the witness is
mination) and
on of the body,
be) and report

Coroner.

COUNTY

COUNTY COURTS AMENDMENT ACT, (C.W.)

C A P. L I I.

AN ACT TO ALTER AND AMEND THE ACT REGULATING THE PRACTICE OF
THE COUNTY COURTS IN CANADA WEST, AND TO EXTEND THE
JURISDICTION THEREOF.

[Assented to, 10th August, 1850.]

WHEREAS it is expedient to alter and amend
the Act regulating the practice of the
several County Courts in Upper Canada, and to extend the juris-
diction thereof: Be it therefore enacted, &c., That
for and notwithstanding anything contained in the
fifth section of the Act passed in the eighth year
of the Reign of Her Majesty, intituled, *An Act to amend, con-
solidate and reduce into one Act, the several Laws now in force,
establishing or regulating the Practice of District Courts in the
several Districts of that part of this Province formerly Upper
Canada*, the said County Courts respectively shall hold plea of
all causes or suits relating to debt covenant or contract, to the
amount of fifty pounds; and in cases of debt or contract, where
the amount is ascertained by the signature of the defendant, to
one hundred pounds, and also in all matters of tort relating to
personal chattels, where the damages shall not exceed the sum
of thirty pounds, and where the title to land shall not be brought
in question: Provided always, that any plaintiff
having a cause of action within the jurisdiction of
the County Court, may institute and carry on such
action in either of Her Majesty's Superior Courts
of Common Law in Upper Canada, and proceed to judgment
and execution therein, but such plaintiff or defendant, and all
persons and officers entitled to costs and fees
therein, shall only be allowed and recover the
usual costs disbursements which would be allowable in case the
said action had been instituted and carried on in the County
Court: any thing in the fifty-ninth section of the Act above cit-
ed to the contrary notwithstanding: Provided that
in order to designate the proceedings in any such
action, as being one also cognizable by the Coun-
ty Courts, all the papers and proceedings filed, issued or used in the
said Superior Courts, shall be endorsed with the words "Inferior
Jurisdiction," in order to regulate the costs, fees and disburse-
ments therein, of all persons entitled to make or receive any
charge therefor.

Preamble

Jurisdiction of
County Courts
raised 8 Vict. c 12

Proviso: Superior
Law Courts to
have concurrent
jurisdiction with
County Courts

As to costs.

Proviso: papers
must be specially
endorsed &c.

Summons &c.
may be served in
any County in
Canada West.

II. And be it enacted, That all writs of summons sued out of, and all declarations or other pleadings filed in any action or proceeding in any County Court, or notices required to be served in such action or proceedings, may be served in any County in Upper Canada, and the defendant shall appear and plead thereto within the periods respectively limited and required by law, in the same manner as if such defendant had been served with such summons, declaration, notice or other proceeding in the County in which such suit was instituted, and all subsequent proceedings in the cause shall be carried on thereafter to final judgment and execution, according to the practice of the County Courts.

Writs against
goods or lands
&c., may be issued into any
County in
Canada West, &c.

III. And be it enacted, That writs of subpoena and writs of execution against goods and chattels, lands and tenements, and also all process against the person when authorized by law, and all rules on the Sheriff and other rules Judges' orders and proceedings may be issued from the County Court in which any judgment has already been or hereafter may be entered up, or action brought into any other County in Upper Canada and served and executed there, and all such writs, rules, orders and proceedings shall be of equal force and effect, and as binding as if the same had issued from the Court or by the Judge of the County to or into which they shall be so issued, and all subsequent proceedings thereupon shall be carried on in the Court in which the judgment shall have been entered up or action brought.

In what County
actions may be
brought.

IV. And be it enacted, That all actions in the County Courts shall be brought either in the County in which the defendant or one or more of of them shall then reside, or in the County in which the debt was contracted or made payable, or the contract was made, in the option of the plaintiff or plaintiffs; and in default thereof, the whole proceedings may, on the application of the defendant or defendants, made at any time before plea pleaded, or any interlocutory or other judgment signed, be set aside with costs.

Judges of County
Courts may
grant summonses
and make orders
to compute in
certain cases
pending in Superior Court.

V. And be it enacted, That every Judge of a County Court in Upper Canada, in all cases in which the suit is brought or venue laid in his County, may grant summonses and make orders to compute in all suits depending in the Superior Courts of Common Law in Upper Canada, in the same manner and in the like cases as the Judges of the said Superior Courts sitting in Chambers may now do, whether the defendants in such suits reside within his County or not.

Commencement
of Act.

VI. And be it enacted, That this Act shall come into force on the first day of January, one thousand eight hundred and fifty-one and not before.

DIVISION COURTS CONSOLIDATION ACT, (C. W.)

CAP. LIII.

AN ACT TO AMEND AND CONSOLIDATE THE SEVERAL ACTS NOW IN FORCE,
REGULATING THE PRACTICE OF DIVISION COURTS IN CANADA WEST, AND
TO EXTEND THE JURISDICTION THEREOF.

[Assented to, 10th August, 1850.]

WHEREAS it is expedient to consolidate and reduce into one Act the several laws now in force regulating the system and practice of certain Courts in Upper Canada established for the recovery of small Debts, and to make other provisions therefor: Be it therefore enacted, &c., That the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to repeal the laws now in force in that part of this Province formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor*,—and the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to amend an Act passed in the fourth and fifth years of the Reign of Her Majesty, intituled, 'An Act to repeal the laws now in force in that part of this Province formerly Upper Canada, for the recovery of Small Debts, and to make other provisions therefor'*,—and the Act passed in the twelfth year of the Reign of Her Majesty, intituled, *An Act to authorize attachments against personal property for sums of ten pounds and under in certain cases in Upper Canada*, shall be and the same are hereby repealed, upon, from and after the day upon which this Act shall come into force.

Preamble.

Act 4 and 5 Vict.
c. 3:

and 8 Vict. c. 87,
and 12 Vict. c. 69,
repealed.

Division Courts,
&c., now existing
to remain until
altered.

II. Provided always, and be it enacted, That the several Division Courts now established and in existence in each County of Upper Canada, and the limits and extent of the same respectively, shall be and remain as they are now, until altered as hereinafter mentioned: and provided also, that all proceedings had under any Act hereby repealed, shall remain good and valid, and all suits, actions or proceedings commenced under any such Act, shall be continued and completed under this Act, as if commenced under the same.

Number of Division Courts and time of holding them, how fixed.

III. And be it enacted, That the number of the said Courts in each County or union of Counties, shall at no time be less than three, nor more than twelve, and that there shall be one Division Court held in each City and County Town, and that a Court shall be holden under this Act once in every two months in such Division, or oftener, in the discretion of the Judge thereof, and that it shall and may be lawful for the Judge of the said Court to affix and appoint the times and the places within such Divisions when and at which such Courts shall be holden, and in like manner from time to time to alter the same.

Justices of the Peace may alter Divisions, &c.

IV. And be it enacted, That it shall and may be lawful for the Justices of the Peace in each County now or hereafter to be erected in Upper Canada, in General Quarter Sessions assembled, to declare and appoint the number, limits and extent of every such Division, within their respective Counties, subject to the restrictions in this Act contained; and such Justices may from time to time alter the number, limits and extent of such Divisions: Provided always, that a less number of Justices shall have no power to rescind or alter any Resolution or Order made by a greater number at any previous Session.

Divisions, &c., to be entered in a book to be kept by the Clerk of the Peace.

V. And be it enacted, That the Divisions of each County so declared and appointed, and the times and places of holding such Courts, and all alterations that may be from time to time made therein as aforesaid, shall be entered and recorded by the Clerk of the Peace, in a book to be by him kept for that purpose, and that it shall be his duty to transmit to the Governor of this Province, a copy of every such entry and record as soon as the same shall have been made.

Justices of the Peace to number the Divisions.

VI. And be it enacted, That the Justices so assembled as aforesaid, shall be required to number the said Divisions, beginning at number one; and that the Court to be held in each Division shall be known by the name and style of the—The First (or other, as the case may be) Division Court for the County of

Judges of County Courts to preside.

VII. And be it enacted, That the Judges of the County Courts of the several Counties in Upper Canada, shall preside over the Division Courts with in their respective Counties, and no such Judge, shall, during the continuance of his appointment, be capable of being elected or of sitting as a Member of the Legislature of this Province, or of practising as an Attorney, a Notary Public, or Solicitor or Counsel, in any of Her Majesty's Courts of Law or Equity.

number of the
County, more than
held in each
under
or oftener,
and may
appoint the
at which
om time to

and may
in each
in Upper
declare and
h. Division,
tions in this
time alter
Divisions:
of Justices
on or Order

Divisions of
ted, and the
urts, and all
time made
y the Clerk
urpose, and
of this Pro-
as the same

ustices so as-
d to number
er one; and
nown by the
ase may be)

Judges of the
ies in Upper
Courts with
ll, during the
ng elected or
Province, or
Solicitor or
Equity.

VIII

VIII. And be it enacted, That in case of illness or unavoidable absence of the Judge of any such County Court, it shall be lawful for the Judge of any County Court for any other County to hold the Court and to act in the place of the Judge so absent and with the same powers, or for such Judge to appoint some Barrister duly admitted as such to act as his deputy; and every person so appointed shall, during the time for which he shall be so appointed, have all the powers and privileges, and be subject to all the duties vested in or imposed by this Act or by Law on the Judge by whom he shall have been so appointed as Judge of the Division Court, and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the Governor of this Province, and such notice shall specify the name, residence and profession of the Deputy Judge, and the cause of his appointment; and no such appointment shall be continued for more than one calendar month without a renewal of the like notice, and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove: Provided always, that whenever from illness of the Judge or Deputy Judge, or from any casualty, it may happen that he shall not arrive in time, or shall not be able to open any Court to be held under this Act on the day appointed for that purpose, it shall and may be lawful for Clerk or deputy Clerk of such Court, after the hour of eight o'clock in the afternoon of such day, to adjourn by proclamation any Court which shall be appointed to be opened on that day to an earlier hour on the following day, not being Sunday or a legal holiday, to be by him named, and so from day to day, adjourning over any Sunday or holiday, until the Judge or Deputy Judge shall arrive to open the same, or until he shall receive other direction from such Judge or Deputy Judge.

Judge, in case of illness, &c., may appoint a deputy properly qualified.

Proviso: when the Judge shall not arrive in time to open the Court on any day.

IX. And be it enacted, That for every Court holden under the authority of this Act, there shall be a Clerk and one or more Bailiffs; and the Judge of the County Court shall from time to time appoint, and at his pleasure remove, the Clerks and Bailiffs of the Courts holden by him: Provided always that no person other than a subject of Her Majesty shall be so appointed: And provided also, that no practising Barrister, Attorney or Solicitor shall hereafter be appointed to the Office of Clerk of any Division Court.

Clerk and Bailiff to be appointed

X. And be it enacted, That it shall be lawful for the Clerk of any such Division Court (with the approval of the Judge thereof,) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to

Clerk may appoint a deputy in case of illness, &c.

to remove such Deputy at his pleasure; and such Deputy, during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being; and the Clerk of the Court and his sureties shall be jointly and severally responsible for all the acts and omissions of his Deputy.

Clerk, &c., may administer oaths of service of process, &c. XI. And be it enacted, That the Clerk or Deputy Clerk shall have full power and authority to administer oaths and take affidavits of service of process, notices or other papers, and also of the execution of Cognovits, and all other oaths required or authorized by this Act, in all suits, actions and proceedings, commenced in his own or in any other Division Court in Upper Canada.

Treasurer to receive all fees: his percentage. XII. And be it enacted, That the Treasurer of every County shall be the Receiver General of fees of the several Division Courts within his County; and every such Treasurer shall be paid a per centage of four pounds, on every hundred pounds of the gross produce of the fees of the Courts of which he is Receiver General; and every Judge shall be paid by a certain salary the salary of a Judge being in no case more than Five Hundred Pounds, nor less than Two Hundred and Fifty Pounds; and the Clerk and the Bailiffs of the Court, shall be paid by fees hereby allowed to them; and the Governor in Council shall fix the remuneration to be paid to the Judges, having due regard to the population and other circumstances of the several Counties and Divisions, and the remuneration to be paid to the Judges may within the limits aforesaid be increased, or diminished by the said authority: Provided always, that the salaries of the said Judges, as at present established, shall remain the same, unless otherwise altered by law, or unless vacancies shall occur.

Judge's Salary.

Clerk and Bailiffs how paid.

Judges' salaries how fixed.

Proviso.

Certain duties assigned to the Clerks. XIII. And be it enacted, That the Clerk of each Division Court shall issue all summonses and furnish copies thereof, with the notice thereon, in the form given in the Schedule to this Act annexed, B, and particulars of the Plaintiff's claim or demand and copy thereof, and of the defendant's sett-off, which copy of demand, particulars or sett-off, are to be furnished to the Clerk by the Plaintiff and Defendant, respectively, and also shall issue all warrants, precepts, and writs of execution, tax costs, subject to the revision of the Judge, and register all orders and judgements of the Court, and keep an account of all Court fees and fines payable or paid into Court, and of all suitor's money paid into and out of Court, and shall enter an account of all such fees, fines and moneys in a book to be kept by him for that

that purpose, which book shall at all times be accessible to the Judge of the said Division Court whose duty it shall be to inspect and examine the same, quarterly, or oftener, and to compare the accounts hereinafter mentioned with the said book required to be kept by the Clerk, and such Judge shall certify on each account, that he has examined the same, and believes it to be correct, or if he does not believe it to be correct, he shall state his objections thereto, and the Clerk shall thereupon forward the account with such certificate to the Treasurer, and such book shall also be open to all persons desirous of searching the same, and shall in addition from time to time, at such times as shall be directed and appointed by the Governor, submit his said accounts to be audited or settled by the Treasurer of his County; and all papers, processes, proceedings, accounts, moneys, books and all matters whatsoever in the possession of the said Clerk by virtue of or appertaining to his office, shall upon his resignation, removal or death, immediately become the property of the Treasurer of the County in which the Division for which he was Clerk is situate, who shall hold the same for the benefit of the public until the appointment of another Clerk to whom the same shall be respectively delivered over by the said Treasurer: Provided always, that it shall not be lawful for the said Treasurer so to deliver over the same until such Clerk and his sureties shall have executed the covenant hereinafter mentioned: And it is hereby declared, that any person or persons whomsoever wrongfully holding or getting possession of such papers, processes, proceedings, accounts, moneys, books and matters aforesaid, or any of them, shall be guilty of a misdemeanor, and that upon the declaration in writing of the Judge presiding over the Division Court for the time being in which such wrongful holding or getting possession as aforesaid shall take place, that any person has obtained or holds such wrongful possession thereof as aforesaid, and upon the order of a Judge of any of Her Majesty's Superior Courts of Law in Upper Canada, founded thereon, such person may be arrested by the Sheriff of any County in which such person shall be found, and be by him committed to the Common Gaol of his County, there to remain without bail or mainprize until one of such Superior Courts or a Judge thereof shall be satisfied that such person has not and never had nor held any such matters or moneys he may have been charged with wrongfully holding or obtaining, or that he has fully accounted for the same or delivered up the same to such Treasurer, or until he shall be otherwise discharged by due course of Law, and the Bailiffs of the Court shall serve all summonses, and execute all such orders, warrants, precepts and writs; and each of such

Books to be open to the Public.

Proceedings in case of death or removal of Clerk:

Forviso.

Penalty on parties who shall wrongfully hold papers, &c.

Duty of Bailiffs as Peace Officers.

such Bailiffs shall also exercise the power and authority of a Constable and Peace Officer during the actual holding of the Division Court of which he is a Bailiff, with full power to prevent all breaches of the peace, riots or disturbances within the Court Room or building wherever the said Court is held, or in the public streets, squares or other places within the hearing of the said Court, and to arrest, with or without any warrant, all parties engaged therein or offending against the meaning of this clause, and to bring such offenders before the nearest Justice of the peace, or any other Judicial Officer having power to investigate the matter or adjudicate thereupon.

Fees to be those in Schedule A, any schedule of reduced fees.

XIV. And be it enacted, That there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Clerks Bailiffs of the Courts, such fees as are set down in the Schedule to this Act annexed marked A. or which shall be set down in any Schedule of reduced fees, under the power hereinafter given for that purpose, and none other; and a table of such fees shall be hung up in some conspicuous place in the offices of the several Clerks of Division Courts; and the fees upon every proceeding shall be paid in the first instance by the Plaintiff, or Defendant, on or before such proceeding, and the Bailiff's fees upon executions shall be paid to the Clerk of the Court, at the time of the issue of the warrant of execution, and shall be paid over by such Clerk to the Bailiff, upon the return of the warrant of execution, and not before:

How paid,

proviso: as to Bailiff neglecting to return process.

Provided always, that if the Bailiff shall neglect to make a return within the time required by law, of any summons, process or execution he shall, for each such neglect, forfeit his fees on such summons, process or execution, and all fees so forfeited shall be held to have been received by the Clerk of the Court, and shall be accounted for and paid over by him to the Treasurer of the County, to form part of the General Fee Fund, in like manner as other moneys received by him, and he shall keep a special account of moneys so forfeited by Bailiffs.

Clerks to render certain accounts to the County Treasurers.

XV. And be it enacted, That the Clerk of each Division Court shall, from time to time, and as often as he shall be required so to do by the Treasurer of his County, and at least once in every three months, deliver to him a full account in writing of the fees received in such Court, under the authority of this Act, or of any Act hereby repealed, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine, in pursuance of the power hereinafter given,) and when required by the Judge shall from time to time

authority of a
 pling of the
 power to pro-
 s within the
 is held, or in
 e hearing of
 warrant, all
 nning of this
 at Justice of
 power to in-

ere shall be
 vision Courts
 to the Clerk
 e set down in
 which shall
 er the power
 ; and a table
 place in the
 the fees upon
 first instance
 r before, such
 shall be paid
 the warrant
 to the Bailiff,
 not before :
 shall neglect
 uired by law,
 n he shall, for
 ns, process or
 ave been re-
 ounted for and
 m part of the
 s received by
 o forfeited by

Clerk of each
 time, and as
 by the Trea-
 ree months,
 s received in
 y Act hereby
 y the Court,
 ses of levying
 y have made
 r hereinafter
 time to time
 furnish

furnish him a like account of the moneys paid into and received out of the Court, by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court, or under process of the Court, and of the balance then remaining in Court, belonging to the Plaintiffs or Defendants in the Court, and the amount of such fees payable to the General Fee Fund, from time to time received by such Clerk, And to pay over moneys to the Treasurer. (such payment being made, at least, once in every three months,) and shall form a part of a fund, to be called the General Fee Fund of the Division Courts, which fund shall be applied towards the payment of the salaries of the Judges of such Courts: Provided always, that each of the accounts to be rendered by the Clerk, as in this section required, shall be verified by such Clerk on oath before the said Judge or a Justice of the Peace.

XVI. And be it enacted, That the Treasurer of every County shall, on or before the first day of July and the first day of January in every year, render to the Inspector General of this Province a true account, in writing, of all moneys received, and of all moneys disbursed by him on account of the Division Courts holden under the authority of this Act, during the period comprised in such account, in such form, and with such particulars as the said Inspector General shall from time to time require; and shall, within ten days after the rendering of every such account, pay over the amount of any surplus fees to the Receiver General of this Province; and if default shall be made in such payment, the amount due by the said Treasurer shall be deemed a specialty debt to Her Majesty. Treasurer to account for and pay over moneys to the Receiver General twice every year. Penalty for default.

XVII. And be it enacted, That in case the amount of fees received in the Division Courts in any County shall not be sufficient to repay the disbursements required on account of such Courts, during the period comprised in the said account, it shall be lawful for the Governor of this Province forthwith to issue his warrant on the Receiver General of this Province, in favor of the County Treasurer, for the amount which shall be required to make up the deficiency, and the amount of such warrant shall be charged upon the Consolidated Revenue Fund of this Province. Provision if the fees be not sufficient to meet the disbursements.

XVIII. And be it enacted, That the accounts to be kept by the several Treasurers on account of the said Courts, shall be deemed public accounts, and shall be inquired into and audited, and shall be within any provision of law now or hereafter to be in force for auditing public accounts. Treasurers' accounts to be public accounts.

XIX. And be it enacted, That if any person, having resigned or having been removed from the

Proceedings in case any Treasurer or Clerk resign or be removed from office

signing or removed
shall refuse to pay
over moneys in
his hands.

office of Treasurer, or of Clerk of a Division Court, shall neglect, after twenty-one days' notice to such person, to account for and pay to the Treasurer of the County for the time being, or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of moneys received under the authority of this Act, it shall be lawful for such Treasurer, for the time being, in addition to any other proceeding in this Act contained, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person and his sureties with costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt; in which action it shall be sufficient for such Treasurer to declare as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which the action shall be brought, may, at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any officer of the Court or other fit person, who shall have power to examine all parties interested in the subject matter upon oath; and upon the report of the referee, (unless either of the parties shall shew good cause to the contrary,) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up as by confession for such sum as upon the report shall appear to be due.

Proceedings in
case of the death
of any Treasurer
or Clerk having
moneys in his
hands.

XX. And be it enacted, That in case of the death of any person during the time that he shall be holding the office of County Treasurer or of Clerk of any Division Court, or after he shall have resigned or be removed from such office, the Treasurer for the time being, may, in his own proper name, or by his name and description of office, sue and recover from the executors or administrators of such person deceased, and his sureties, all such sums as shall have been remaining in his hands of money received under the authority of this Act, by an action of debt in any Court of Record in this Province having competent jurisdiction, in which it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had received to his use for the purposes of this Act; whereby an action hath accrued to the plaintiff, to demand and have the same from such executors or administrators; and a like action may be brought against any executors or administrators of executors or administrators; and in all such actions the defendants may plead in like manner, and avail themselves of the like matters of defence, as in any action founded on simple contract of the original testator or intestate, and the Court may refer the account in dispute to be audited by any officer or person,

and

Division Court,
ys' notice to
to the Trea-
person as he
shall remain
y of this Act,
being, in addi-
t, in his own
of office, to
d his sureties
Province hav-
which action it
as for money
the purposes of
l be brought,
the account in
any officer of
er to examine
ath; and upon
ies shall shew
a rule either
shall appear to
tion, and upon
ear reasonable;
up as by con-
ar to be due.
in case of the
e that he shall
reasurer or of
r he shall have
ch office, the
oper name, or
cover from the
ceased, and his
ng in his hands
t, by an action
having compe-
for the plaintiff
the plaintiff for
ses of this Act;
to demand and
ors; and a like
administrators
actions the de-
mselves of the
on simple con-
Court may re-
fficer or person,
and

and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

XXI. And be it enacted, That in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer by virtue of this Act, proof of his acting in the execution of the office of Treasurer shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions or the parties against whom such proceedings shall be instituted or carried on.

Plaintiff acting as
Treasurer to be
prima facie evi-
dence of his be-
ing so.

XXII. And be it enacted, That the Treasurer of every County shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of his office, and for the due payment of all moneys received by him under any provision of this Act, and that every Clerk and Bailiff whose duty it shall be to receive moneys or who shall be appointed under this Act, shall give security for such sum, and with so many sureties as the Judge for the Division Court for which they act shall see reason to direct, by entering into a covenant under their hand and seal joint and several, according

Treasurers,
Clerks and Bai-
liffs to give secu-
rity.

Form of
covenant.

to the form given in the Schedule to this Act annexed marked C, or in words to the same effect, which covenant shall be available to, and may be sued upon, by any person suffering damages by the default, breach of duty, or misconduct of such Clerks and Bailiffs respectively, in any Court of competent jurisdiction in Upper Canada; and every such Clerk or Bailiff appointed before this Act shall come into effect, shall, immediately after it shall have come into effect, and before he shall perform any duty after that time, give security in the manner hereby required, but his so doing shall not in any wise impair or affect any bond or recognizance or covenant theretofore entered into by him, as such Clerk or Bailiff, but the same shall remain in full force as against him and his sureties, as regards any thing done or omitted to be done by him in breach of the conditions thereof, before this Act shall come into effect: Provided always, that such covenants shall not be accepted until the sureties therein mentioned shall have been approved of under the hand of such Judge, and declared sufficient for the sums for which they shall have respectively become bound to such covenants, and which said covenants, together with such approval, shall, before any such Clerk or Bailiff shall enter upon the duties of his office under this Act, be filed in the office of the Clerk of the Peace in the County in which the Division

Clerks or Bailiffs
heretofore ap-
pointed.

Proviso: sureties
must be approved
by Judge.

Court in respect of which such covenants were given is situated, for which filing and granting a certificate thereof the said Clerk of the Peace shall be entitled to demand and receive from such Clerk or Bailiff the sum of five shillings, and no more; and if any person who shall have become surety in any such covenant shall die, become resident out of Upper Canada, or insolvent, such Clerk or Bailiff shall, within one month after being notified by such Judge (whose duty it shall be to notify the same) of such death, departure or insolvency, give anew the like security, and in the same manner as hereinbefore provided, or forfeit his

If sureties die or become insolvent, &c.

Proviso.

said office of Clerk or Bailiff under this Act: Provided always, that nothing herein contained shall extend or be construed to extend to discharge or exonerate all or any of the parties to such former covenants from their liability on account of any matter or thing which shall have been done or omitted before the renewal of the covenant as herein directed:

Proviso.

And provided also, that a copy of such covenant, certified by the Clerk of the Peace, shall be received in all Courts as sufficient evidence of the due execution and of the contents thereof without any proof whatever; And provided that

Proviso.

such sureties shall be freeholders and resident within the County in which the Court is held.

Jurisdiction of Division Courts.

XXIII. And be it enacted, That the Judge of every such Division Court shall have power, jurisdiction and authority to hold plea of all claims and demands whatsoever for or against any person or persons bodies corporate or otherwise, of debt, account or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed shall not exceed the sum of twenty-five pounds, and in all torts to personal chattels, to and including the amount of ten pounds, and the Judge of the said Court shall hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments and decrees thereupon as shall appear to him to be just and agreeable to equity and good

As to certain contracts.

conscience; and that upon any contract for the payment of a sum certain in labor or in any kind of goods or commodities, or in any manner otherwise than in money, that is to say, upon any contract for the delivery of goods or commodities, or the doing of work or labor for value received, or for or upon a past or executed consideration, it shall be lawful for the Judge, after the day has passed on which the goods or commodities ought to have been delivered, or the labor or other things performed, to give judgment for the amount in money as if the contract had been so originally expressed:

Proviso

Provided always, that no action shall be brought

or tr
for a
nor
invo
vide
be c
Cour

X.

any
enter
or de
mand
acco
upon
on th
in the
acco
pass;
be att
the pe
in the
each t
at lea
holden
delive
deman
vant, c
house
deemed
or den
vice of
cases v
forty sh

XXV.

under
for the
there sh
Defend
entering
Division
trespass
Judge.

XXV.

lawful
action in
bringing

given is situ-
thereof the
mand and re-
shillings, and
shall have be-
shall die, be-
or insolvent,
being notified
(the same) of
like security,
or forfeit his
his Act: Pro-
ontained shall
exonerate all
their liability
ve been done
herein direc-
of such cove-
received in all
nd of the con-
provided that
and resident

the Judge of
e power, juris-
all claims and
persons bodies
ch of contract,
e in money or
shall not exceed
in all torts to
the amount of
hear and deter-
ch Judge shall
erees thereupon
quity and good
act for the pay-
in any kind of
than in money,
goods or com-
received, or for
l be lawful for
goods or com-
labor or other
nt in money as
ally expressed:
shall be brought
or

or tried in any such Division Court for any gambling Debt, nor for any spirituous or malt liquors drunk in a tavern or ale-house nor for any cause involving the right or title to real estate, or involving any right to any custom or toll: Pro-
vided also, that nothing contained in this Act shall be construed to constitute and create the said Division Courts,
Courts of Record.

Proviso.

XXIV. And be it enacted, That the Plaintiff in any suit brought in any Division Court, shall enter a copy, and if necessary copies of his account or demand in writing, in detail, and the particulars of his demand in any case of tort or trespass, which shall be numbered according to the order in which it shall be entered, and thereupon a summons, bearing the number of the account or demand on the margin thereof, shall be issued which shall be in substance in the form of the Schedule to this Act annexed, marked B, according to the nature of the demand or claim for tort or trespass; and a copy of such summons, to which shall be attached a copy of the Plaintiff's account, or of the particulars of his demand, as the case may be, and the notice in the said Schedule of such demand, or account, or claim for each tort or trespass, shall be served on the Defendant ten days at least before the day on which the Division Court shall be holden at which the cause shall be tried: and delivery of such copies of summons and account or demand to the Defendant, or delivery thereof to his wife or servant, or any grown person being an inmate of his dwelling-house or usual place of abode, trading or dealing shall be deemed a good service of such summons, account or demand; Provided always, that personal service of such summons on the debtor shall be necessary in all cases where the amount or damages sued for exceed the sum of forty shillings.

Mode of commencing suits in Division Courts.

Service of summons, notice, &c.

On whom to be made.

Proviso.

XXV. And be it enacted, That all suits brought under this Act shall be tried at the Court holden for the Division wherein the Defendant, or where there shall be more than one Defendant, wherein any one of the Defendants shall dwell or carry on his business at the time of entering the account or demand, or at the Court holden for the Division within which the debt was contracted, or the tort or trespass committed, unless otherwise specially ordered by the Judge.

At what Division Court any suit may be brought.

XXVI. And be it enacted, That it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits, for the purpose of bringing the same within the jurisdiction of a Division Court, but

Plaintiff may not divide his claim, but may abandon excess.

any

any Plaintiff, having a cause of action above Twenty-five Pounds in which a suit might be brought under this Act, if the same were not above that sum, whenever he shall claim or demand only the balance, or sum of Twenty-five Pounds, may

Proviso: as to unsettled accounts.

on proving his case, recover to that amount only: Provided always, that no unsettled account to a greater amount than Fifty Pounds shall be sued for in any Division Court; and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment shall be made accordingly.

Minors may sue for wages.

XXVII. And be it enacted, That it shall be lawful for any one under the age of twenty-one years to prosecute any suit in any division Court under this Act for any sum of money not exceeding Twenty-five Pounds which may be due to him or her for wages, in the same manner as if he or she were of full age.

No person exempt by privilege.

XXVIII. And be it enacted, That no privilege of any description whatsoever shall be allowed to any person to exempt him from suing and being sued in the said Division Courts upon any cause of action within the jurisdiction of the said Courts.

Debts due by more than one person jointly may be recovered from one saving his recourse.

XXIX. And be it enacted, That where any plaintiff shall have any debt or demand recoverable under this Act, against two or more persons, partners in trade, or otherwise jointly answerable, but residing in different Divisions, or one or more of whom cannot be found, it shall be sufficient if any one or more of such persons be served with the process as hereinbefore directed, and the judgment may be obtained, and execution issued against such person, notwithstanding others jointly liable may not have been served or sued, reserving always to the person against whom execution may issue, any right which he may have to demand contribution from any other person jointly liable with him;

Proviso: as to cases against partnerships.

Provided always, that whenever judgment is obtained against any person, being partner of a firm, and the Judge shall certify that the demand proved was strictly a partnership transaction, the Bailiff may seize and sell the property of such firm, as well as that of the Defendant or Defendants, who has or have been served, to satisfy such judgment, together with all lawful costs and charges thereon.

Judge to decide alone up to a certain amount.

XXX. And be it enacted, That the Judge of the County Court or his Deputy, as aforesaid, shall be the sole Judge to determine all actions brought in the said Division Courts, in the summary manner authorized by this Act, and all matters and questions of fact relating thereto unless the amount claimed shall in cases of tort or trespass exceed

Two Pounds Ten Shillings, in other cases where the same shall exceed Five Pounds and where either of the parties shall require a jury to be summoned as hereafter mentioned.

XXXI. And be it enacted, That in any suit brought in any Division Court for any debt or demand not exceeding the sum of Five Pounds, the Judge, in his discretion, may receive the affidavit of any party or witness in the said suit, resident without the jurisdiction of the Judge of such Court, as testimony in the cause, if such affidavit shall be made and sworn to before a Judge of a Division Court, or a Commissioner for taking affidavits in any of the Superior Courts in Upper Canada: Provided that the Judge, in his discretion, before he shall be required to pronounce judgment, may require any such witness, or any party in a cause, to answer any interrogatories that may be filed in the said cause, which answers may in like manner be sworn to before any Judge or Commissioner.

In suits not exceeding £5, Judge may receive affidavits of parties without his jurisdiction.

Proviso.

XXXII. And be it enacted, That in all actions of tort or trespass, where the sum of money sought to be recovered shall exceed Two Pounds Ten Shillings, and in all other cases where such sum shall exceed Five Pounds, it shall be lawful for the plaintiff or defendant to require a Jury to be summoned to try the said action, and in any such case a Jury shall be summoned according to the provisions hereinafter contained to try such action: Provided always, that if the plaintiff require a Jury to be summoned, he shall give notice in writing to the Clerk of the Court at the time when he shall enter his account, demand or claim as aforesaid, and if the defendant shall require a Jury to be summoned, he shall give to the said Clerk, or leave at the office of the said Clerk, the like notice in writing within five days after the day of service of the summons on the said defendant.

Jury allowed in cases over a certain amount.

Proviso: notice to be given to the Clerk.

XXXIII. And be it enacted, That every party plaintiff or defendant, requiring any jury to be summoned, shall, at the time of giving the notice hereby required, and before he shall be entitled to have such jury summoned, pay to the Clerk of the said Court such sum of money as is set down in the Schedule of Fees for the time being, for or towards the payment of the expenses of the said jury.

Sum to be paid on demanding a jury.

XXXIV. And be it enacted, That the causes which are to be heard by the Judge alone, shall be set down for hearing in a separate list from the list of causes which are to be tried by a jury, which two lists shall be severally called "The Judge's List" and "The Jury List," and the causes shall be set down in such lists in the order

"Judge's List" and "Jury List" to be kept,

in which they were entered in the first instance with the Clerk of the Division Court; and "The Jury List" shall be first disposed of, and then "The Judge's List;" except when the Judge shall see sufficient cause for proceeding differently.

Who shall be
Jurors at Division
Courts.

not above the

What Jurors
shall serve for
each Division.

Collectors to
furnish Clerks
with lists of per-
sons liable to
serve.

Mode of summon-
ing Jurors.

Proviso: as to
right of challenge.

Penalty on
Jurors summon-
ed and not
attending,

How enforced.

Proviso: such

XXXV. And be it enacted, That all male persons being subjects of Her Majesty by birth or naturalization above the age of twenty-one years, and age of sixty years assessed upon the Collector's Roll and resident in the several divisions respectively, shall be jurors for the Division Courts in such Divisions, and the jurors to be summoned to

serve at any Division Court shall be taken from the Collector's Rolls of the preceding year, for the Townships and places wholly or partly within the Division, and shall be summoned in rotation beginning with the first of such persons on such Roll; and if there be more than one such Township or place within the Division beginning with the Roll for that within which the Court is held, and then proceeding to that one of the other Rolls which shall contain the greatest number of such persons, names, and so on until all the Rolls be gone through; after which, if necessary, they may be again gone through wholly or partly in

the same order, and so on to *toties quoties*; and for the purposes of this section, it shall be the duty of the Collector for each place wholly or partly within any division, to furnish the Clerk of the Division

Court thereof with correct lists of the names of all persons liable to serve as jurors at such Court in the order in which they stand

upon the Rolls, and the Clerk of each Division Court shall cause not less than fifteen of the

persons liable to serve as aforesaid to be summoned at each Session of the Court, (giving them at least three days notice,) to attend the Court at the time and place to be mentioned in the summons serving such notice personally, or leaving it with a

grown-up person at the residence of the juror; Provided always, that either of the parties to any such cause shall be entitled to his lawful challenge against any of the said jury in like manner as he would in any other Court;

and any juryman who, after being duly summoned for that purpose as aforesaid, shall wilfully neglect or refuse to attend the Court in obedience to such summons shall be liable to a fine not ex-

ceeding twenty shillings, to be set on him by the Judge, which fine shall be levied and collected with costs, as other fines are hereinafter directed to be levied

and collected, and shall form part of the general fee fund; and such fine may be levied by the same process as any debt or

judgment recovered in the said Court: Provided always,

h the Clerk
first disposed
Judge shall

male persons
or natural-
years, and
Collector's
ons respect-
n Courts in
mmoned to
Collector's
aces wholly
mmoned in
n such Roll;
place within
n which the
other Rolls
sons, names,
er which, if
or partly in
ties; and for
the duty of
partly with-
the Division
persons liable
h they stand
ach Division
fteen of the
ned at each
ys notice,) to
tioned in the
ng it with a
e juror; Pro-
rties to any
against any
other Court;
ly summoned
hall wilfully
in obedience
fine not ex-
the Judge,
ed with costs,
d to be levied
ee fund; and
s any debt or
urt: Provided
always,

always, that service as juror at any Division Court shall not exempt such juror from serving as juror in any of the Superior Courts of civil or criminal jurisdiction or in any County Court, under any law now in force or to be passed during this present Session of Parliament respecting jurors.

service not to
exempt from
service at certain
Courts.

XXXVI. And be it enacted, That each juror shall receive from the Clerk of the Division Court, out of the moneys to be deposited with him for that purpose, the sum of sixpence, for every cause in which such Juror shall be sworn.

Payment of
Jurors.

XXXVII. And be it enacted, That from time to time, as occasion shall require, five Jurors shall be empannelled and sworn to do justice between the parties whose cause they shall be required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and each cause shall be decided by the unanimous verdict of any such Jury, and no other finding shall be received.

Five Jurors to be
sworn.

Verdict must be
unanimous.

XXXVIII. And be it enacted, That whenever the Judge holding any Division Court shall be satisfied that a Jury sworn in any cause before him cannot agree upon their verdict after having been out a reasonable time, he may discharge them, and shall then adjourn the cause until the next Court and order the Clerk to summon a new Jury for the next sitting of the Court to be held in that Division, unless the parties shall have consented that the Judge may render judgment on the evidence already taken before him, in which case he is hereby authorized to give judgment accordingly.

Case where the
jury cannot agree,
provided for.

XXXIX. And be it enacted, That every decision of the Judge, in any case heard before him, shall be openly pronounced in Court as soon as may be after the hearing thereof, save and except that in any case where the Judge may not be prepared to pronounce a decision instant, he may postpone judgment and name a subsequent day and hour for the delivery thereof at the Clerk's Office in writing; and at such a day and hour it shall be lawful for the Clerk to read the judgment to the parties or their agents if present, and if not, then to enter the said judgment in their absence, and such judgment shall be as effectual as if rendered in Court at the trial.

How judgment
shall be pro-
nounced.

Exception.

XL. And be it enacted, That every summons and writ of execution issued by a Clerk of any Division Court shall be entirely filled up, and shall

No writ of
summons or
execution to have
any blank.

have

have no blank either in the date or otherwise at the time of its delivery to a Bailiff or any other person, to be executed.

Proceedings on
day of appear-
ance.

XLl. And be it enacted, That on the day named in the summons, the Plaintiff shall appear in the Division Court in person, or by some person in his behalf, to answer; and on answer being made in Court, the Judge shall proceed in a summary way to try the cause and give judgment without further pleading or formal joinder of issue.

Cause of action
to be proved as
stated.

XLII. And be it enacted, That no evidence shall be given by the Plaintiff or Defendant on the trial of any such cause as aforesaid, of any cause of action, claim or set-off, except such as shall be stated and contained in the demand, claim, account or set-off, entered as herein-before directed.

Defendant may
plead set-off.

XLIII. And be it enacted, That any defendant may avail himself of the law of set-off and the Statute of Limitations, and of any other relief or discharge under any statute or law in Upper Canada; and if the Defendant's demand exceed that of the Plaintiff, the Court may non-suit the Plaintiff; or if the Defendant's demand, after remitting any portion of it he may please, do not exceed Twenty-five Pounds, the Court may give judgment for the Defendant for the balance found

Proviso: as to
statutory defence,
&c.

in his favor: Provided always, that no statutory defence shall be admitted, unless notice thereof in writing and a copy of such debt or demand by way of set-off, shall have been delivered to the Plaintiff, or left at his usual place of abode, if within the Division, or if living without the Division, to the Clerk of the said Court, at least six days before

Proviso.

the trial or hearing: And provided also, that whenever any judgment shall be given in any case where a set-off is set up, the judgment of the Court on such set-off, shall be a full discharge, as well of the amount allowed to be set-off as the amount by which such claim of the Defendant exceeded Twenty five pounds, and such judgment shall be so entered accordingly.

Judgment on set
off to be a dis-
charge.

Judge to make
rules of practice.

XLIV. And be it enacted, That the Judge of the County Court shall have power from time to time to make general rules for regulating the practice and proceedings of the said Division Courts, and also to frame forms for every proceeding in the said Courts for which he shall think it necessary that a form be provided, and from time to time to alter any such form, and also to alter all or any of the forms given in the Schedule of this Act: Provided always, that such rules and forms so made, framed or altered, shall not be brought into use until the same shall have been submitted to and approved by the Chief Justice and Judges

Proviso: rules to
be approved.

time of its
l.

ay named
ear in the
erson in his
Court, the
e and give
issue.

ence shall
n the trial
cause of
and con-
as herein-

defendant
ff and the
arge under
defendant's
on-suit the
itting any
ounds, the
ance found

statutory
thereof in
of set-off,
his usual
without the
ays before
that when-
a set-off is
ll be a full
wed to be
claim of the
s, and such

e Judge of
m time to
actice and
ame forms
shall think
to time to
the forms
e Provided
ide, framed
e shall have
and Judges
of

of the Court of Queen's Bench or Court of Common Pleas, for that part of this Province called Upper Canada, or any two of them: Provided always, that all rules and forms already legally made, approved and in force shall, as far as applicable, remain in force, until it is otherwise ordered.

Proviso: as to
existing rules.

XLV. And be it enacted, That if on the day named in the summons the Defendant shall not appear as aforesaid, or sufficiently excuse his absence, or shall neglect to answer, the Judge, on proof of due service of the summons and copy of the Plaintiff's account, claim or demand, may proceed to the hearing or trial of the cause on the part of the Plaintiff only, and the order, verdict or judgment thereupon which shall be given, made or rendered after hearing evidence to be adduced on the part of the Plaintiff, shall be final and absolute, and as valid as if both parties had attended; and in case of the personal service of the summons, and detailed particulars of the Plaintiff's claim, except in actions of tort or trespass, the Judge may, in his discretion, give judgment without further proof: Provided always, that the Judge may make any order for granting any time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

Proceedings if
defendant shall
make default.

Proviso.

XLVI. And be it enacted, That it shall be lawful for the Defendant in any action brought under the provisions of this Act, at any time not less than six days before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such payment shall be forthwith communicated by the Clerk of the said Court to the Plaintiff by post, (on receiving the necessary postage,) or by sending the same to his usual place of abode or business, and the sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed, unless the Plaintiff shall, within three days after the receipt of notice of such payment, signify to the Clerk of said Court his intention to proceed for the remainder of the demand claimed, and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court, under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall

Defendant may
pay money into
Court.

How the money
shall be dealt
with.

Proviso: if the
plaintiff recover
no greater sum.

shall be recovered by the Defendant by such ways and means as any sum ordered to be paid by the Court can be recovered.

False swearing to be perjury.

XLVII. And be it enacted, That every person who in any examination, shall wilfully or corruptly give false evidence, or shall wilfully swear (or affirm, when by law affirmation is allowed,) falsely in any matter where an oath, affirmation, or affidavit in writing is required and allowed in this Act, shall be liable to the penalties of wilful and corrupt perjury.

Parties may obtain subpoenas for witnesses.

XLVIII. And be it enacted, That either of the parties to the suit may obtain from the Clerk of any Division Court a summons requiring the attendance of a witness residing within the County or served with the subpoena therein with or without a clause requiring the production of books, papers and writings in his possession or control; and in any such summons any number of names may be

By whom to be served.

Proof of service.

inserted, and service of a copy of any such summons by any literate person shall be as valid and effectual as if the same had been served by a Bailiff of the Court in which the suit is pending, and proof of the due service thereof, together with the tender of payment of expenses, may be received by several Judges of the said Courts by written affidavits sworn before any Judge of a Division Court or before any person authorised by law to take affidavits in the Superior Courts in Upper Canada: and every person on whom any such copy of summons shall have been served, either personally or at his or her usual place of abode, and to whom at the same time a tender of payment of his or her expenses shall have been made on such scale of allowance as has been heretofore or shall from time to time be settled by the Judge, and approved of by the Judges of the Court of Queen's Bench or Court of Common Pleas as aforesaid, and who shall refuse or neglect without sufficient cause to appear or to produce any books, papers or writings required by such summons to be produced, and also every person

Or refusing to be sworn, &c.

in Court called upon to give evidence, who shall refuse to be sworn or affirm where affirmation is by law allowed and give evidence, shall forfeit and pay such fine not exceeding two pounds, as the Judge shall set on him or her, and shall moreover be liable to imprisonment by verbal or written order of such Judge for any time not exceeding ten days;

How levied, &c. and such fine shall be levied and collected with costs in the same manner as fines imposed on jourymen for non-attendance, and the whole or any part of such fine, in the discretion of the Judge, after deducting the costs shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the General

Fee
that
Super
ada, a
ness r
Canad
subpo
for his
accor

XL
each
monse
and re
book
his na
said b
and co
admit
entry
or ent

L.
make
propor
of the
entitle
Court
time, r
was se
be pos
same
summe

LI.
judgm
taken
ed judg
main a
maind
for the
shall b

LII.
brough
awarde
Act, no
sufficie

LIII
Judge

ad means
covered.

ry person
r corrupt-
swear (or
any mat-
required
of wilful

er of the
Clerk of
ng the at-
rved with
g the pro-
n or con-
es may be
such sum-
valid and
rved by a
l proof of

ayment of
aid Courts
a Division
affidavits
ada: and
f summons
y or at his
me time a
n made on
shall from
of by the

mon Pleas
t sufficient
ritings re-
very person
who shall
firmation is
y such fine
im or her,
verbal or
g ten days;
ected with
rymen for
ine, in the
ll be appli-
a refusal or
the General

Fee

Fee Fund before mentioned; Provided always, that either party may obtain from either of the Superior Courts of Common Law for Upper Canada, a subpoena requiring the attendance of a witness residing or served with such subpoena in any part of Upper Canada, at the Division Court, and at the time mentioned in such subpoena, which such witness shall obey, provided the allowance for his expenses shall, at the time of service, be tendered to him according to the scale settled in the said Superior Courts.

Proviso: as to wit-
nesses out of
jurisdiction of
Court.

XLII. And be it enacted, That the Clerk of each Division Court shall cause a note of all summonses, and of all orders, and of all judgments and executions and returns thereto, to be fairly entered from time to time in a book which shall be kept in his office; and the Clerk shall sign his name on every page of such book; and such entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such Clerk, shall at all times be admitted in all Courts and places whatsoever as evidence of such entry or entries, and of the proceedings referred to by such entry or entries, without any further proof.

Clerk to enter all
proceedings.

L. And be it enacted, That the Judge, may make orders concerning the time or times, and the proportions in which any sum and costs recovered by judgment of the said Court shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into the Court: Provided always, that in any such order for time, reference shall be had to the day on which the summons was served on the defendant, and issuing of execution shall not be postponed without the consent of the party entitled to the same for a longer period than fifty days from the service of the summons.

Judge may grant
delay to defend-
ant.

Proviso.

LI. And be it enacted, That if there be cross-judgments between the parties, execution shall be taken out by the party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Proceedings when
there are cross-
judgments.

LII. And be it enacted, That in any suit brought in any Court for the recovery of any sum awarded by any judgment in a Division Court held under this Act, no costs shall be recoverable without order of the Judge, on sufficient cause being shewn.

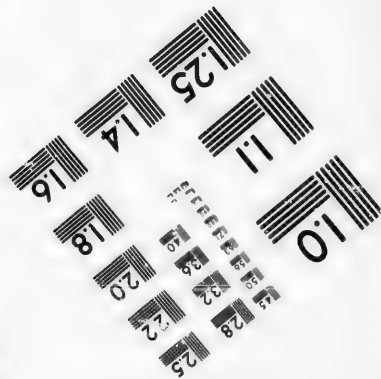
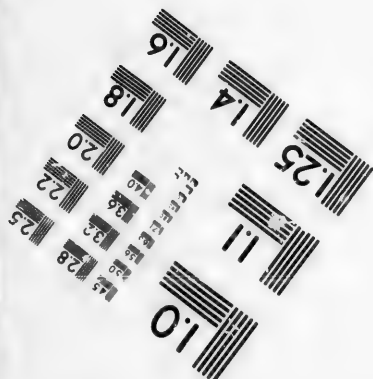
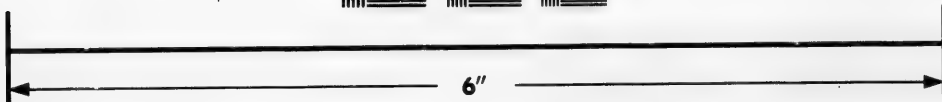
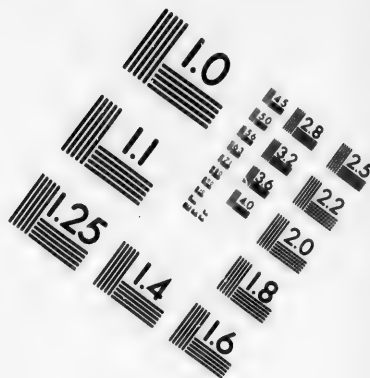
No suit on a judg-
ment of a Division
Court.

LIII. And be it enacted, That whenever the Judge of any Division Court shall make an order

Execution how
granted and
enforced.

for





Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

1.5 2.8
1.6 3.2
1.8 3.6
2.0 4.0
2.2 4.5
2.5 5.0
2.8 5.6
3.2 6.3
3.6 7.1
4.0 8.0
4.5 9.0
5.0 10.0
5.6 11.2
6.3 12.5
7.1 14.0
8.0 16.0
9.0 18.0
10.0 20.0
11.2 22.5
12.5 25.0
14.0 28.0
16.0 32.0
18.0 36.0
20.0 40.0
22.5 45.0
25.0 50.0
28.0 56.0
32.0 63.0
36.0 71.0
40.0 80.0
45.0 90.0
50.0 100.0
56.0 112.0
63.0 125.0
71.0 140.0
80.0 160.0
90.0 180.0
100.0 200.0
112.0 225.0
125.0 250.0
140.0 280.0
160.0 320.0
180.0 360.0
200.0 400.0
225.0 450.0
250.0 500.0
280.0 560.0
320.0 630.0
360.0 710.0
400.0 800.0
450.0 900.0
500.0 1000.0
560.0 1120.0
630.0 1250.0
710.0 1400.0
800.0 1600.0
900.0 1800.0
1000.0 2000.0
1120.0 2250.0
1250.0 2500.0
1400.0 2800.0
1600.0 3200.0
1800.0 3600.0
2000.0 4000.0
2250.0 4500.0
2500.0 5000.0
2800.0 5600.0
3200.0 6300.0
3600.0 7100.0
4000.0 8000.0
4500.0 9000.0
5000.0 10000.0
5600.0 11200.0
6300.0 12500.0
7100.0 14000.0
8000.0 16000.0
9000.0 18000.0
10000.0 20000.0
11200.0 22500.0
12500.0 25000.0
14000.0 28000.0
16000.0 32000.0
18000.0 36000.0
20000.0 40000.0
22500.0 45000.0
25000.0 50000.0
28000.0 56000.0
32000.0 63000.0
36000.0 71000.0
40000.0 80000.0
45000.0 90000.0
50000.0 100000.0
56000.0 112000.0
63000.0 125000.0
71000.0 140000.0
80000.0 160000.0
90000.0 180000.0
100000.0 200000.0
112000.0 225000.0
125000.0 250000.0
140000.0 280000.0
160000.0 320000.0
180000.0 360000.0
200000.0 400000.0
225000.0 450000.0
250000.0 500000.0
280000.0 560000.0
320000.0 630000.0
360000.0 710000.0
400000.0 800000.0
450000.0 900000.0
500000.0 1000000.0
560000.0 1120000.0
630000.0 1250000.0
710000.0 1400000.0
800000.0 1600000.0
900000.0 1800000.0
1000000.0 2000000.0
1120000.0 2250000.0
1250000.0 2500000.0
1400000.0 2800000.0
1600000.0 3200000.0
1800000.0 3600000.0
2000000.0 4000000.0
2250000.0 4500000.0
2500000.0 5000000.0
2800000.0 5600000.0
3200000.0 6300000.0
3600000.0 7100000.0
4000000.0 8000000.0
4500000.0 9000000.0
5000000.0 10000000.0
5600000.0 11200000.0
6300000.0 12500000.0
7100000.0 14000000.0
8000000.0 16000000.0
9000000.0 18000000.0
10000000.0 20000000.0
11200000.0 22500000.0
12500000.0 25000000.0
14000000.0 28000000.0
16000000.0 32000000.0
18000000.0 36000000.0
20000000.0 40000000.0
22500000.0 45000000.0
25000000.0 50000000.0
28000000.0 56000000.0
32000000.0 63000000.0
36000000.0 71000000.0
40000000.0 80000000.0
45000000.0 90000000.0
50000000.0 100000000.0
56000000.0 112000000.0
63000000.0 125000000.0
71000000.0 140000000.0
80000000.0 160000000.0
90000000.0 180000000.0
100000000.0 200000000.0
112000000.0 225000000.0
125000000.0 250000000.0
140000000.0 280000000.0
160000000.0 320000000.0
180000000.0 360000000.0
200000000.0 400000000.0
225000000.0 450000000.0
250000000.0 500000000.0
280000000.0 560000000.0
320000000.0 630000000.0
360000000.0 710000000.0
400000000.0 800000000.0
450000000.0 900000000.0
500000000.0 1000000000.0
560000000.0 1120000000.0
630000000.0 1250000000.0
710000000.0 1400000000.0
800000000.0 1600000000.0
900000000.0 1800000000.0
1000000000.0 2000000000.0
1120000000.0 2250000000.0
1250000000.0 2500000000.0
1400000000.0 2800000000.0
1600000000.0 3200000000.0
1800000000.0 3600000000.0
2000000000.0 4000000000.0
2250000000.0 4500000000.0
2500000000.0 5000000000.0
2800000000.0 5600000000.0
3200000000.0 6300000000.0
3600000000.0 7100000000.0
4000000000.0 8000000000.0
4500000000.0 9000000000.0
5000000000.0 10000000000.0
5600000000.0 11200000000.0
6300000000.0 12500000000.0
7100000000.0 14000000000.0
8000000000.0 16000000000.0
9000000000.0 18000000000.0
10000000000.0 20000000000.0
11200000000.0 22500000000.0
12500000000.0 25000000000.0
14000000000.0 28000000000.0
16000000000.0 32000000000.0
18000000000.0 36000000000.0
20000000000.0 40000000000.0
22500000000.0 45000000000.0
25000000000.0 50000000000.0
28000000000.0 56000000000.0
32000000000.0 63000000000.0
36000000000.0 71000000000.0
40000000000.0 80000000000.0
45000000000.0 90000000000.0
50000000000.0 100000000000.0
56000000000.0 112000000000.0
63000000000.0 125000000000.0
71000000000.0 140000000000.0
80000000000.0 160000000000.0
90000000000.0 180000000000.0
100000000000.0 200000000000.0
112000000000.0 225000000000.0
125000000000.0 250000000000.0
140000000000.0 280000000000.0
160000000000.0 320000000000.0
180000000000.0 360000000000.0
200000000000.0 400000000000.0
225000000000.0 450000000000.0
250000000000.0 500000000000.0
280000000000.0 560000000000.0
320000000000.0 630000000000.0
360000000000.0 710000000000.0
400000000000.0 800000000000.0
450000000000.0 900000000000.0
500000000000.0 1000000000000.0
560000000000.0 1120000000000.0
630000000000.0 1250000000000.0
710000000000.0 1400000000000.0
800000000000.0 1600000000000.0
900000000000.0 1800000000000.0
1000000000000.0 2000000000000.0
1120000000000.0 2250000000000.0
1250000000000.0 2500000000000.0
1400000000000.0 2800000000000.0
1600000000000.0 3200000000000.0
1800000000000.0 3600000000000.0
2000000000000.0 4000000000000.0
2250000000000.0 4500000000000.0
2500000000000.0 5000000000000.0
2800000000000.0 5600000000000.0
3200000000000.0 6300000000000.0
3600000000000.0 7100000000000.0
4000000000000.0 8000000000000.0
4500000000000.0 9000000000000.0
5000000000000.0 10000000000000.0
5600000000000.0 11200000000000.0
6300000000000.0 12500000000000.0
7100000000000.0 14000000000000.0
8000000000000.0 16000000000000.0
9000000000000.0 18000000000000.0
10000000000000.0 20000000000000.0
11200000000000.0 22500000000000.0
12500000000000.0 25000000000000.0
14000000000000.0 28000000000000.0
16000000000000.0 32000000000000.0
18000000000000.0 36000000000000.0
20000000000000.0 40000000000000.0
22500000000000.0 45000000000000.0
25000000000000.0 50000000000000.0
28000000000000.0 56000000000000.0
32000000000000.0 63000000000000.0
36000000000000.0 71000000000000.0
40000000000000.0 80000000000000.0
45000000000000.0 90000000000000.0
50000000000000.0 100000000000000.0
56000000000000.0 112000000000000.0
63000000000000.0 125000000000000.0
71000000000000.0 140000000000000.0
80000000000000.0 160000000000000.0
90000000000000.0 180000000000000.0
100000000000000.0 200000000000000.0
112000000000000.0 225000000000000.0
125000000000000.0 250000000000000.0
140000000000000.0 280000000000000.0
160000000000000.0 320000000000000.0
180000000000000.0 360000000000000.0
200000000000000.0 400000000000000.0
225000000000000.0 450000000000000.0
250000000000000.0 500000000000000.0
280000000000000.0 560000000000000.0
320000000000000.0 630000000000000.0
360000000000000.0 710000000000000.0
400000000000000.0 800000000000000.0
450000000000000.0 900000000000000.0
500000000000000.0 1000000000000000.0
560000000000000.0 1120000000000000.0
630000000000000.0 1250000000000000.0
710000000000000.0 1400000000000000.0
800000000000000.0 1600000000000000.0
900000000000000.0 1800000000000000.0
1000000000000000.0 2000000000000000.0
1120000000000000.0 2250000000000000.0
1250000000000000.0 2500000000000000.0
1400000000000000.0 2800000000000000.0
1600000000000000.0 3200000000000000.0
1800000000000000.0 3600000000000000.0
2000000000000000.0 4000000000000000.0
2250000000000000.0 4500000000000000.0
2500000000000000.0 5000000000000000.0
2800000000000000.0 5600000000000000.0
3200000000000000.0 6300000000000000.0
3600000000000000.0 7100000000000000.0
4000000000000000.0 8000000000000000.0
4500000000000000.0 9000000000000000.0
5000000000000000.0 10000000000000000.0
5600000000000000.0 11200000000000000.0
6300000000000000.0 12500000000000000.0
7100000000000000.0 14000000000000000.0
8000000000000000.0 16000000000000000.0
9000000000000000.0 18000000000000000.0
10000000000000000.0 20000000000000000.0
11200000000000000.0 22500000000000000.0
12500000000000000.0 25000000000000000.0
14000000000000000.0 28000000000000000.0
16000000000000000.0 32000000000000000.0
18000000000000000.0 36000000000000000.0
20000000000000000.0 40000000000000000.0
22500000000000000.0 45000000000000000.0
25000000000000000.0 50000000000000000.0
28000000000000000.0 56000000000000000.0
32000000000000000.0 63000000000000000.0
36000000000000000.0 71000000000000000.0
40000000000000000.0 80000000000000000.0
45000000000000000.0 90000000000000000.0
50000000000000000.0 100000000000000000.0
56000000000000000.0 112000000000000000.0
63000000000000000.0 125000000000000000.0
71000000000000000.0 140000000000000000.0
80000000000000000.0 160000000000000000.0
90000000000000000.0 180000000000000000.0
100000000000000000.0 200000000000000000.0
112000000000000000.0 225000000000000000.0
125000000000000000.0 250000000000000000.0
140000000000000000.0 280000000000000000.0
160000000000000000.0 320000000000000000.0
180000000000000000.0 360000000000000000.0
200000000000000000.0 400000000000000000.0
225000000000000000.0 450000000000000000.0
250000000000000000.0 500000000000000000.0
280000000000000000.0 560000000000000000.0
320000000000000000.0 630000000000000000.0
360000000000000000.0 710000000000000000.0
400000000000000000.0 800000000000000000.0
450000000000000000.0 900000000000000000.0
500000000000000000.0 1000000000000000000.0
560000000000000000.0 1120000000000000000.0
630000000000000000.0 1250000000000000000.0
710000000000000000.0 1400000000000000000.0
800000000000000000.0 1600000000000000000.0
900000000000000000.0 1800000000000000000.0
1000000000000000000.0 2000000000000000000.0
1120000000000000000.0 2250000000000000000.0
1250000000000000000.0 2500000000000000000.0
1400000000000000000.0 2800000000000000000.0
1600000000000000000.0 3200000000000000000.0
1800000000000000000.0 3600000000000000000.0
2000000000000000000.0 4000000000000000000.0
2250000000000000000.0 4500000000000000000.0
2500000000000000000.0 5000000000000000000.0
2800000000000000000.0 5600000000000000000.0
3200000000000000000.0 6300000000000000000.0
3600000000000000000.0 7100000000000000000.0
4000000000000000000.0 8000000000000000000.0
4500000000000000000.0 9000000000000000000.0
5000000000000000000.0 10000000000000000000.0
5600000000000000000.0 11200000000000000000.0
6300000000000000000.0 12500000000000000000.0
7100000000000000000.0 14000000000000000000.0
8000000000000000000.0 16000000000000000000.0
9000000000000000000.0 18000000000000000000.0
10000000000000000000.0 20000000000000000000.0
11200000000000000000.0 22500000000000000000.0
12500000000000000000.0 25000000000000000000.0
14000000000000000000.0 28000000000000000000.0
16000000000000000000.0 32000000000000000000.0
18000000000000000000.0 36000000000000000000.0
20000000000000000000.0 40000000000000000000.0
22500000000000000000.0 45000000000000000000.0
25000000000000000000.0 50000000000000000000.0
28000000000000000000.0 56000000000000000000.0
32000000000000000000.0 63000000000000000000.0
36000000000000000000.0 71000000000000000000.0
40000000000000000000.0 80000000000000000000.0
45000000000000000000.0 90000000000000000000.0
50000000000000000000.0 100000000000000000000.0
56000000000000000000.0 112000000000000000000.0
63000000000000000000.0 125000000000000000000.0
71000000000000000000.0 140000000000000000000.0
80000000000000000000.0 160000000000000000000.0
90000000000000000000.0 180000000000000000000.0
100000000000000000000.0 200000000000000000000.0
112000000000000000000.0 225000000000000000000.0
125000000000000000000.0 250000000000000000000.0
140000000000000000000.0 280000000000000000000.0
160000000000000000000.0 320000000000000000000.0
180000000000000000000.0 360000000000000000000.0
200000000000000000000.0 400000000000000000000.0
225000000000000000000.0 450000000000000000000.0
250000000000000000000.0 500000000000000000000.0
280000000000000000000.0 560000000000000000000.0
320000000000000000000.0 630000000000000000000.0
360000000000000000000.0 710000000000000000000.0
400000000000000000000.0 800000000000000000000.0
450000000000000000000.0 900000000000000000000.0
500000000000000000000.0 1000000000000000000000.0
560000000000000000000.0 1120000000000000000000.0
630000000000000000000.0 1250000000000000000000.0
710000000000000000000.0 1400000000000000000000.0
800000000000000000000.0 1600000000000000000000.0
900000000000000000000.0 1800000000000000000000.0
1000000000000000000000.0 2000000000000000000000.0
1120000000000000000000.0 22500

for the payment of money, it shall be lawful for the party in whose favor such order shall be made, in case of default or failure of payment thereof at the times and in the manner thereby directed, to sue out execution against the goods and chattels of the party against whom such order shall be made; and thereupon the Clerk of the Court, at the request of the party prosecuting such order for the payment of money, shall issue under the seal of the Court a precept in the nature of *fiery facias* to one of the Bailiffs of the Court, who by virtue of such precept shall levy by distress and sale of the goods and chattels of such party, being within the County within which the said Court was holden, such sum of money and costs (together with interest thereon, from the date of the entry of the judgment) as shall be so ordered and past due, and shall pay the same over to the said Clerk.

The Bailiff or Clerk may receive a confession of debt.

LIV. And be it enacted, That it shall and may be lawful for any Bailiff or Clerk of the said Courts to accept and take a confession or acknowledgment of debt from any debtor or debtors desirous of executing the same before any suit commenced for the claim or demand, or from the defendant in any suit hereafter to be brought in any Division Court who may be desirous of making the same, and such confession or acknowledgment shall be in writing and witnessed by the Bailiff or Clerk at the time of the taking thereof; and upon the production of such confession or acknowledgment to the Judge, and its being proved by the oath of the said Bailiff or Clerk, judgment may be entered thereon; and such oath or affidavit shall state that the party making it has not received and is not to receive anything from the plaintiff or defendant, or any other person, except his lawful fees, for taking such acknowledgment, and that he has no interest in the demand sought to be recovered.

Execution may issue in another County when the defendant has removed to such other County.

LV. And be it enacted, That if any person against whom a judgment shall or may have been entered up in any Division Court in any County in Upper Canada, shall remove to another County therein without satisfying the said judgment, it shall be lawful for the Judge of the Division Court of the County to which the said party has removed to order an execution for the debt and costs, for which judgment has been rendered in another County against such party, to issue against such party, upon the production of a copy of such judgment duly certified by the Judge of the County for which the judgment has been entered: Provided always, that if the party against whom such execution shall be awarded, shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk or Bailiff of the Division Court

Provido: if party pay the judgment and costs.

r the party in default or failure thereby and chattels of ; and there-party prose-issue under *facias* to one precept shall of such party, t was holden, erest thereon, ll be so order-ne said Clerk. shall and may of the said on or acknow-ous of execu-the claim or eafter to be us of making nt shall be in e time of the confession or ed by the oath ment may be affidavit shall and is not to or any other nnowledgment, to be recov- if any person ay have been n any County othor County hall be lawful r to which the the debt and nothor County on the produc- the Judge of ed: Provided whom such fore an actual r cause to be Division Court out

out of which such execution has issued, such sum of money as aforesaid, or such part thereof as the said Plaintiff shall agree to accept in full of his debt, together with the fees to be levied, the execution shall be superseded, and the goods shall be released and restored to the said party.

LVI. And be it enacted, That every writ of execution issued by the Clerk of any Division Court shall be dated on the day when it shall actually issue, and shall be returnable within thirty days from the date thereof.

Execution to be dated, and returnable within thirty days.

LVII. And whereas it is expedient that judgments exceeding ten pounds in the said Courts shall in certain cases affect lands, and that execution should issue in certain cases against lands obtained in any Division Court, Be it enacted, That whenever judgment is rendered in favor of any Plaintiff or Defendant in any Division Court under this or any former Act hereby repealed, and any execution therein issued shall or may have been returned *nulla bona*, it shall be lawful for such plaintiff or defendant to obtain a transcript of such judgment from the Clerk of such Court, under his hand and sealed with the seal of the said Court, which transcript shall set forth the proceedings in the cause, the date of issuing execution against the Defendant's or Plaintiff's goods and chattels, and the Bailiff's return of *nulla bona* thereon, as to the whole or a part, and upon filing such transcript in the Office of the Clerk of the County Court in the County where such judgment shall have been obtained, or in the County wherein the Defendant's or Plaintiff's lands are situate, the same shall become and is hereby declared to be a judgment of the said County Court, and the said Clerk of the County Court is hereby required to file the said transcript of Judgment on the day of the month on which he receives the same, and to enter a memorandum thereof in a book to be by him provided for that purpose, which memorandum shall contain the names of the Plaintiff and Defendant, the amount of the judgment, the amount remaining unsatisfied thereon, and the date of filing, for which services the said Clerk of the County Court shall be entitled to demand and receive from the person filing the same the sum of two shillings and sixpence, and no more; and such book shall at all reasonable hours be accessible to any person desirous of examining the same, upon the payment to the said Clerk of six pence, and upon such filing and entry as aforesaid, the Plaintiff or Defendant shall, until the judgment is fully paid and satisfied, be entitled, to pursue the same remedy for the recovery of the same or the balance due thereon, as if the judgment had been originally obtained from the County Court:

Execution against lands on return of *nulla bona*—

How obtained—

From County Courts.

Duty of Clerk of County Court.

Proviso.

Provided always, that no person shall be entitled to file a transcript of any such judgment in any County Court, unless the sum remaining unsatisfied on such judgment, and on the execution to be issued thereon, shall amount to the sum of ten pounds.

Certificates of judgment may be obtained and registered against lands.

LVIII. And be it enacted, that it shall be lawful for any party obtaining judgment in any Division Court exceeding ten pounds at any time after fourteen days from the day of giving judgment, to obtain a certificate of any such judgment from the Clerk of such Division Court, in the form used in the Superior Courts as near as circumstances will permit, which certificate shall on the request of the party obtaining the same be registered in the same manner, and on payment of the same fees to the Registrar as are paid upon certificates of the judgments of the Superior Courts, and on such registry shall bind lands to the same extent as they would have been bound had the judgment been rendered in any of the Superior Courts.

Penalty on Bailiff neglecting to make a return or wilfully making a false return.

LIX. And be it enacted, That if any Bailiff shall neglect to return any writ of execution within three days after the return day thereof, or shall make a false return thereto, the party having sued out such writ may maintain an action on the covenant aforesaid against such Bailiff and his sureties in any Court having competent jurisdiction in Upper Canada aforesaid, and shall recover therein the amount for which the execution issued, with interest from the date of the judgment upon which such execution was issued, or such less sum as in the discretion of the Judge or Jury the Plaintiff under the circumstances may be justly entitled to recover; and if a judgment be obtained in such suit against the Bailiff and his sureties, execution shall immediately issue thereon; any thing in this Act or in any other Act or law to the contrary notwithstanding; and in case of the departure or removal from the limits of the County, of such Bailiff, the action may be commenced and carried on against his sureties alone, or against any one or more of them.

At what time goods shall be sold after seizure in execution, &c.

LX. And be it enacted, That no sale of any goods which shall be taken in execution shall be had until after the end of eight days at least, next following the day on which such goods shall have been so taken, unless upon the request in writing, under the hand of the party whose goods shall have been taken; and the Bailiff after taking goods and chattels into his custody by virtue of a writ of execution, shall endorse thereon the date of the seizure; and shall immediately give public notice by advertisement signed by himself, and put up at three of the most public places

Notice of sale.

all be entitled to
y Court, unless
nt, and on the
he sum of ten

shall be lawful
n any Division
ny time after
t, to obtain a
Clerk of such
Courts as near
shall on the
ed in the same
Registrar as are
uperior Courts,
extent as they
endered in any

if any Bailiff
t of execution
day thereof, or
e party having
the covenant
in any Court
aforesaid, and
ecution issued,
on which such
discretion of the
r the circum-
a judgment be
ureties, execu-
this Act or in
nding; and in
of the County,
nd carried on
more of them.

o sale of any
ution shall be
s at least, next
been so taken,
l of the party
iff after taking
writ of execu-
re; and shall
advertisement
public places
in

in the Division, where such goods and chattels shall be taken, of the time and place within such Division when and where they will be exposed to sale; which notice shall describe the goods and chattels taken, and shall be so put up at least eight days before the time appointed for the sale.

LXI. And be it enacted, That no Bailiff or other officer of any Division Court, shall, directly or indirectly, purchase any goods or chattels at any sale made by him under execution, and every purchase made in contravention of this enactment shall be absolutely void.

No Bailiff, &c., to purchase at such sale.

LXII. And be it enacted, That when any Clerk or Bailiff of any Division Court, either by himself or jointly with any other person or persons, is liable to be sued, or may sue any other person or persons, for a debt or demand within the jurisdiction of the Division Court of which he shall be a Clerk or Bailiff, then and in every such case such Clerk or Bailiff may sue, and shall be liable to be sued for any debt due to or by him, separately or jointly with any other person or persons, in the Court of any next adjoining Division in the same County, in the same manner, to all intents and purposes, as if the cause of action for which any such suit shall be brought, had arisen within such next adjoining Division, or the defendant or defendants were resident therein.

In what Court a Clerk or Bailiff may sue and be sued.

LXIII. And be it enacted, That it shall and may be lawful for the judge of the said Court, at any time after the giving and recording of any judgment upon application being made to him by the party in whose favor such judgment shall be given, upon oath or other sufficient testimony to the satisfaction of the said Judge, that the party will be in danger of losing the amount of such judgment, if he be compelled to wait till the day of payment thereof before any execution can issue thereon, to order the issue of an execution at such time as he shall think fit.

In certain cases the Judge may order immediate execution.

LXIV. And be enacted, That if any person or persons in any County of Upper Canada, being indebted in any sum not exceeding twenty-five pounds, nor less than twenty shillings, for any debt or damages arising upon any contract, express or implied, or upon any judgment, shall abscond from this Province, leaving personal property liable to seizure under execution for debt, in any County in Upper Canada, or shall attempt to remove his, her or their personal property of the description above mentioned, either out of Upper Canada, or from one County to another therein, or from Upper to Lower Canada, or shall keep concealed in any County of Upper Canada to avoid service of process, it shall and may be lawful for any creditor or creditors of such person or persons, his, her or their

Proceedings in case of absconding debtors, &c.

servant

servant or agent, to make application to the Clerk of any Division Court of the County wherein the debtor or debtors were or was last domiciled, or where the debt was contracted, or to the Judge of the County Court therein, or to any Justice of the Peace in any County of Upper Canada, and upon making or

Affidavit required. producing an affidavit or affirmation to the purport of that in the Schedule to this Act annexed marked D, (which affidavit or affirmation the said Clerks, Judges and Justices of the Peace are respectively hereby authorized to administer,) and upon then and there filing the said affidavit or affirmation with such Clerk or Judge, or if taken before a Justice of the Peace, with such Justice of the Peace (whose duty it shall be to transmit the same forthwith to the Clerk of the Division Court, within whose Division the same was so made or taken, to be filed and kept among the papers in the cause), it shall be lawful for such Clerk, Judge or Justice of the Peace forthwith to issue a warrant

Warrant to issue. under his hand and seal, directed to the Bailiff of the Division Court, within which the same was issued, or to any Constable of the County, commanding such Bailiff or Constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person or persons, of what nature and kind soever, liable to seizure under execution for debt within such County or a sufficient portion thereof, to secure the sum mentioned in the warrant, with the costs of the action and to return the same forthwith to the Division Court of the Division wherein such warrant was issued, upon receipt of which warrant the Bailiff or Constable to whom the same may be directed, shall upon being paid his lawful fees for levy, mileage and otherwise thereupon, including the fees of appraisement, forthwith execute

Duty of Bailiff or Constable on receiving such warrant. the same, and make a just and true inventory of all such personal estate and effects, as he shall seize and take by virtue thereof, and such Bailiff or Constable shall within twenty-four hours thereafter call to his aid two Freeholders, who shall first be sworn by such Bailiff or Constable, to appraise the said personal estate and effects so seized; and such Bailiff or Constable shall forthwith return the said inventory which shall be attached to such appraisement to the Clerk of the Division Court of the Division within

Form of warrant. which such warrant was issued, and which warrant may be in the form of that in the Schedule to this Act annexed, marked E: Provided always, that

Proviso. the said appraisers shall be entitled to receive for each day they may be employed in carrying its enactments into effect, the sum of two shillings and six pence each, to be paid in the first instance by the plaintiff or plaintiffs and allowed in the costs of the cause: Provided always,

Poss to appraiser. that proceedings may be conducted to judgment and execution in any case commenced by attachment

Proviso: where proceedings may be conducted to judgement.

ment under the provisions of this section, in the Division Court of the Division within which the warrant of attachment shall issue; and that when proceedings shall be commenced in any case before the issuing of an attachment under the provisions of this section, such proceedings may be continued to judgment and execution in the Division Court within which such proceedings may have been commenced; and the property seized upon any such attachment shall be liable to seizure and sale under the execution to be issued upon such judgment, or the proceeds thereof, in case such property shall have been sold as perishable, shall be applied in satisfaction of such judgment: Provided further, that it shall not be lawful for any plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the provision of this section, but any plaintiff having a cause of action above the value of twenty-five pounds, for which an attachment might be issued under this section if the same were not above the value of twenty-five pounds, may abandon the excess, and upon proving his case, shall and may recover to an amount not exceeding twenty-five pounds, and the judgment of the Court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly.

Liability of property seized.

Proviso: cause of action not to be divided, but excess may be abandoned.

LXV. And be it enacted, That whenever several attachments shall be issued against any party, as authorized by the next preceding section of this Act, the proceeds of the goods and chattels which shall have been attached, shall not be paid over to such attaching creditor or creditors according to priority, but they shall be rateably distributed among such of the creditors suing out the said attachments as shall obtain judgment against the debtor, in proportion to the amount of the sums really due upon such judgments; and no distribution shall take place until reasonable time, in the opinion of the Judge, has been allowed to the several creditors to proceed to judgment: Provided always, that when such goods and chattels shall not be sufficient to satisfy the claims of all the attaching creditors, none shall be allowed to share, unless he shall have sued out his attachment, and given notice thereof to the Clerk of the Division Court out of which the first attachment shall have issued or shall be returnable, within one month from the issuing of such first attachment.

Proviso when there is more than one attachment.

Proviso: when goods seized will not satisfy all.

LXVI. And be it enacted, That all property seized under the provisions of the next preceding section, shall be forthwith handed over to the custody and possession of the Clerk of the Division Court of the Division

Property seized to be in custody of Clerk of Division Court.

Division within which the warrant was issued, who shall take the same into his charge and keeping, and shall be allowed all necessary disbursements for keeping the same,

Persons against whose effects &c., a warrant is issued may tender a bond to their creditors, with sureties prior to judgment, and obtain a release of the goods.

LXVII. And be it enacted, That if any person or persons against whose estate or effects such warrant or warrants as aforesaid, may have been issued, or any person or persons on his, her or their behalf, shall at any time prior to the recovery or judgment in the cause, execute and tender to the creditor or creditors, who sued out such warrant or warrants as aforesaid, and shall file in the Division Court to which the warrant or warrants of attachment shall have been returned, a bond with good and sufficient sureties, to be approved of by the Judge or Clerk of the Division Court, binding the obligors, jointly and severally, in double the amount of the sum claimed, with condition that the debtor or debtors (naming him, her or them) shall in the event of the claim being proved and judgment being recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same or the value of the property so taken and seized, to the claimant or claimants, or shall produce such property whenever thereunto required to satisfy such judgment, it shall and may be lawful for such Clerk to supersede such warrant, and all and singular the property which may have been attached, shall then be restored.

As to party not appearing within one month after warrant issued against him.

LXVIII. And be it enacted, That if after the period of one month from the seizure aforesaid, the party against whom the warrant issued, or some one on his behalf, do not appear and give such bond with sureties conditioned as above mentioned, whenever and as soon as judgment shall have been obtained upon such claim or claims, execution thereupon may immediately issue and the property seized upon such attachment or attachments, or enough of such property to satisfy the same, may be sold thereon to satisfy the same according to law, or enough of the proceeds thereof may be applied to satisfy the judgment and costs, if the same shall have been previously sold under the provisions hereinafter made as perishable property: Provided always, that when a summons has been personally served on the party whose property shall have been seized as aforesaid, and before such seizure, then the trial of the cause shall be proceeded with, as if no such attachment had issued, and execution shall forthwith be awarded after judgment, unless otherwise ordered by the Judge.

Service of process how made in the cases last mentioned.

LXIX. And be it enacted, That in order to proceed in recovery of any debt due by the person or persons against whose property a warrant shall have issued under this Act, where process shall not have

who shall take
all be allowed all

if any person or
effects such war-
have been issu-
her or their be-
covery or judg-
nder to the credi-
warrant or war-
Court to which
e been returned,
proved of by the
obligors, jointly
n claimed, with
n, her or them)
judgment being
dings have been
the value of the
claimants, or shall
quired to satisfy
h Clerk to super-
erty which may

that if after the
seizure aforesaid,
at issued, or some
d give such bond
whenever and as
a such claim or
sue and the pro-
ts, or enough of
hereon to satisfy
eds thereof may
the same shall
ereinafter made
ways, that when
r served on the
s aforesaid, and
all be proceeded
execution shall
wise ordered by

t in order to pro-
py the person or
a warrant shall
process shall not
have

have been previously served, the same may be served either personally or by leaving copy at the last place of abode, trade or dealing of the defendant, with any person or persons there dwelling, or by leaving the same at the said dwelling if no person be there found; and in every case, all subsequent proceedings shall and may be conducted according to the usual course of practice and proceedings in the Division Court aforesaid: Provided always, that if it shall appear to the satisfaction of the Judge in the trial of any cause, upon affidavit, sworn to in manner authorized by this Act with regard to other affidavits or other sufficient proof, that the creditor or creditors suing out an attachment under the provisions of this Act, had not reasonable or probable cause for taking such proceedings, then it shall be the duty of the Judge to order that no costs whatever shall be allowed to such creditor or creditors, plaintiff or plaintiffs therein, and no cost in such case shall be recovered in the cause.

Proviso: if no
reasonable cause
of seizure.

LXX. And be it enacted, That in case any horses, cattle, sheep or other perishable goods or chattels, shall be taken upon any warrant to be issued as aforesaid, it shall be lawful for the Clerk of the Court in whose custody or keeping the same shall be, the same having been first appraised as aforesaid and at the request of the plaintiff suing out the warrant, to expose and sell the same at public auction, to the highest bidder, giving at least eight days' notice at the office of the Clerk of the said Division Court, and at two other public places within such Division, of the time and place of such sale, if the articles seized will admit of being so long kept, otherwise to sell the same at his discretion: Provided always, that it shall not be compulsory upon the Bailiff or Constable to seize, or upon the Clerk to sell such perishable articles, until the party suing out the warrant shall have given a bond to the defendant or defendants therein, with good and sufficient sureties in double the amount of the appraised value thereof (to be ascertained as aforesaid,) conditioned that the party directing such seizure and sale will repay the value thereof, together with all the costs and damages that may be incurred in consequence of such seizure and sale, in case judgment be not obtained for such party suing out such attachment, which bond shall also be filed with the papers in the cause: Provided always, that any bond given in the course of any proceeding under this Act, may be sued in any Division Court of the County wherein the same shall have been executed, and proceedings may be thereupon carried on to judgment and execution in such Court, notwithstanding the penalty contained in such bond may exceed the sum of twenty-five pounds: And provided further, that every bond shall and may be delivered up to the party entitled

Perishable arti-
cles taken upon
warrant may be
sold forthwith.

Proviso: security
may be required
from the plaintiff.

Proviso.

Proviso.

to the same, by the order and at the discretion of the Judge of such Court to be enforced or cancelled, as the case may require.

Residue of proceeds how disposed of.

LXXI. And be it enacted, That any residue which may remain after satisfying such judgments with the costs thereupon, shall be delivered to the defendant, or to the Agent of the defendant, or to any person in whose custody the goods were found,—whereupon the responsibility of the Clerk, as respects such property, shall cease.

Plaintiff's books may be evidence in certain cases.

LXXII. And be it enacted, That the judges of the said Courts upon proof of and being satisfied with the general correctness of the plaintiff's books, may receive the same in evidence, and give judgment to the amount of five pounds in any cause within the said Courts except in tort or trespass, and that it shall be lawful for the judge of any such Division Court in his discretion to grant a new trial upon application of either party within fourteen days after the trial of any cause therein.

Revivor of suits against the party dying.

LXXIII. And whereas it is desirable that judgments in the said Division Courts, and in the Courts of Requests for the trial of Small Causes in Upper Canada should be recovered by and against the personal representatives of the parties thereto; Be it therefore enacted, that in the event of the death of either or both of the parties to any such judgment, it shall and may be lawful for the party in whose favor such judgment may have been entered, or his personal representatives in case of his death, to revive such judgment against the other party or his personal representatives, in case of his death, and to issue Execution thereon as may be provided and established by the Judges of the said Courts respectively.

Recital.

LXXIV. And whereas under the former Act relative to the court of Requests, various Clerks were appointed for Townships and other localities under the Commissioners; And whereas when the Division Court Act was passed no provisions were therein contained for the delivery up of the books, papers, and documents connected with the business and with the claims of suitors; And whereas it has been found inconvenient that such books, papers and documents should remain elsewhere than with the Clerks of the different Division Courts: Be it therefore enacted,

Provision as to papers in the hands of former Clerks of the Court of Request.

That it shall and may be lawful for the Judge of the County Court, by writing under his hand, to require any person or persons in whose possession or custody any such books, papers or documents shall or may be, to deliver the same or all, or any, or either thereof, as he shall see fit, over to such Division Court Clerk as he shall name, and in the event of the same not being delivered in compliance with such order or requisition it shall and may be lawful

of the Judge of
e may require.

residue which
gments with
d to the defend-
erson in whose
responsibility

the judges of
satisfied with
il's books, may
to the amount
cept in tort or
e of any such
ial upon appli-
he trial of any

able that judg-
d in the Courts
uses in Upper
onal representa-
ed, that in the
es to any such
arty in whose
r his personal
such judgment
ives, in case of
y be provided
spectively.

former Act re-
e appointed for
ssioners; And
d no provisions
books, papers,
with the claims
ient that such
here than with
efore enacted,
r the Judge of
r his hand, to
se possession or
ocuments shall
er thereof, as
k as he shall
ivered in com-
may be lawful
for

for Her said Majesty's Court of Queen's Bench, or Court of Com-
mon Pleas, or for any Judge thereof in vacation to proceed
against such person or persons in the like manner as provided
for in any of the foregoing sections of this Act.

LXXV. And be it enacted, That if any person shall wilfully insult the Judge or any Officer of any Division Court, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by order of the Judge, to take such offender into custody, and the Judge may impose upon any such offender a fine not exceeding the sum of five pounds, and in default of immediate payment thereof, it shall be lawful for the said Judge, by warrant under his hand and seal, to commit the offender to the Common Gaol of the County for any period not exceeding one calendar month, unless such fine and costs, with the expenses attending the commitment, be sooner paid.

Punishment of
persons wilfully
insulting any
Judge.

LXXVI. And be it enacted, That if any Bailiff or Officer of any Division Court acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this Act, it shall be lawful for the Judge at any sitting of the Court, if the party aggrieved shall think fit to complain, to him in writing, to enquire into such matter in summary way, and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of any such damages and costs to the parties aggrieved as the Judge shall think just; and in default of payment of any money so ordered to be paid by such Bailiff within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale, of the goods of the offender, together with the reasonable charges of such distress and sale, and in default of such distress (or summarily in the first instance,) to commit the offender to the Common Gaol of the County for any period not exceeding three calendar months.

Punishment of
any Bailiff or Offi-
cer guilty of ex-
tortion.

LXXVII. And be it enacted, That if any Clerk, Bailiff or other Officer employed in putting this Act or any of the powers thereof into execution, shall exact, take or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed and allowed respectively as aforesaid for or on account of anything done or to be done by virtue of this Act, on any account whatsoever relative

Punishment of
Clerks, Bailiffs, &c;
taking other than
their proper fees,
&c.

to putting this Act into execution, every such person so offending, shall, upon proof thereof before the said Court, be for ever incapable of serving or being employed under this Act, in any office of profit or emolument, and shall also be liable in damages to the party aggrieved.

As to costs where a Plaintiff shall bring in a Superior Court, an action which ought to have been brought in a Division Court provided for.

LXXVIII. And be it enacted, That in case any action shall be prosecuted after the commencement of this Act, in any County or Superior Court of Record, for any cause which might have been entered in a Division Court under this Act, and the Plaintiff shall obtain judgment for a sum not exceeding the respective sums to which the jurisdiction of a Division Court is by this Act limited, no more costs shall be taxed against the defendant than would have been incurred in the Division Court in carrying on the same action, unless the Judge who presides at the trial of such action shall certify in open Court immediately after the verdict is recorded, that it was a fit cause to be withdrawn from the Division Court, and to be commenced in such County or Superior Court; provided also that so much of the costs of the Defendant to be taxed as between

Proviso.

Attorney and Client in any such suit wherein the Judge shall not certify as aforesaid, as shall exceed the costs of defence, taxable and which would have been incurred in the Division Court in defending the same action, shall be set off and allowed by the taxing officer, on entering judgment, against the costs to be taxed for the plaintiff and recoverable from the defendant, who shall be entitled to execution, with the costs thereof against the plaintiff, when the amount of costs so set off shall exceed the plaintiff's verdict and taxable costs: And provided also, that no execution on such suit shall

Proviso.

issue against lands, unless the amount of such judgment shall equal the sum for which execution against land are authorized by this Act.

Certain information in levying not to make the party a trespasser from the beginning.

LXXIX. And be it enacted, That when any levy or distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers, on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto; nor shall the party or parties distraining be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed by the party or parties so distraining, but the person or persons aggrieved by such irregularity shall and may recover full satisfaction for the special damage.

LXXX. And be it enacted, That it shall and may be lawful for any executor or administrator to sue and be sued in any Courts holden under the authority of this Act in like manner as if he were a party in his own right, and the judgment and execution shall be such as in the like cases would be given or issued in any Superior Court.

Executors, &c., may sue in Division Courts.

LXXXI. And be it enacted, That on the hearing or trial of any action or in any other proceeding in the said Division Courts holden under this Act, the parties thereto, and all other persons may be summoned as witnesses and examined either on behalf of the Plaintiff or Defendant, upon oath (or solemn affirmation, in those cases in which persons are allowed to make affirmation instead of taking an oath,) to be administered by the proper officer of the Court: Provided always, that no party to the suit shall be summoned or examined, except at the instance of the opposite party or the Judge.

All persons may be examined as witnesses in Division Courts.

Provido: exception.

LXXXII. And be it enacted, That payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of the Judge, in like manner as judgment for any sum adjudged in the said Court, and shall be accounted for as herein provided.

How fines imposed by this Act may be enforced.

LXXXIII. And be it enacted, That all the costs of any action or proceeding in any Division Court not otherwise provided for, shall be paid by or apportioned between the parties in such manner as the Judge shall think fit, and in cases where the plaintiff shall not appear in person or by some person on his behalf, or appearing shall not make proof of his demand to the satisfaction of the Judge, it shall be lawful for the Judge, if he shall think fit, to award the defendant such costs and such further sum of money by way of satisfaction for his trouble and attendance as he in his discretion may think proper, to be recovered as provided for in other cases under this Act, and in default of any special direction, the costs shall abide the event of the action, and execution may issue for the recovery of such costs in like manner as for any debt adjudged in the said Court.

Costs to be apportioned in such manner as the Judges shall think fit.

If no special direction.

LXXXIV. And be it enacted, That every order and judgment of any Division Court holden under this Act, except as herein provided, shall be final and conclusive between the parties, but the Judge shall have power to non-suit the plaintiff in any case in which satisfactory proof shall not be given to him entitling either the plaintiff or the defendant to the judgment of the Court, and any plaintiff may elect to be non-suited by the Judge and insist thereon,

Judgments in Division Courts to be final: non-suits and new trials allowed.

thereon, and the Judge shall also in every case whatever have the power, if he shall think fit, to order a new trial to be had upon such terms as he shall think reasonable, and in the meantime to stay the proceedings: Provided such new trial be applied for, at furthest, within fourteen days, and good grounds be shown therefor, by the party so applying.

In certain cases suits may be removed by *certiorari*.

LXXXV. And be it enacted, That any suit brought in any Division Court holden under this Act may be removed or removeable from the said Court into Her Majesty's Court of Queen's Bench, or Court of common Pleas in Upper Canada, by any writ of *certiorari*, provided the debt or damage claimed shall amount to ten pounds and upwards, and provided leave be obtained of one of the Judges of the said Court of Queen's Bench, or Court of Common Pleas, in cases which shall appear to the said Judge fit to be tried in either of the said Superior Courts, and not otherwise, and upon such terms as to payment of costs or such other terms as he shall think fit.

Each Court to have a seal.

LXXXVI. And be it enacted, That for every Court holden under the authority of this Act there shall be made a seal of the Court to be paid for out of the Fee Fund, and all summonses and other process issuing out of the said Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of the said Court, knowing the same to be false, or who shall act or profess to act under any false color or pretence of the process of the said Court, shall be guilty of felony.

Mode of serving process out of the Division.

LXXXVII. And be it enacted, That any summons or other process which under this Act shall be required to be served out of the Division of the Court from which the same shall have issued, may be served by the Bailiff of such or any other Division Court in Upper Canada holden under this Act, and such service shall be as valid as if the same had been made by a Bailiff of the Court out of which the summons or process shall have been issued, within the jurisdiction of the Court for which he acts.

Mode of proving such service.

LXXXVIII. And be it enacted, That service of any summons or other process of any Division Court which shall require to be served out of the Division of the said Court may be proved by affidavit purporting to be sworn before any Judge or Clerk of a Division Court, or before any person authorized by Law to take affidavits in the Superior Courts of Common Law in Upper Canada;

Fee on affidavit of service.

ever have had upon and in the divided such days, and ying.

any suit er this Act said Court f common d the debt wards, and said Court hich shall e said Su- as to pay-

for every Act there aid for out ssuing out ped with who shall t, or who the same person any or other e, or who ce of the

any sum- Act shall on of the ued, may Court in shall be Court out d, within

ervice of ion Court Division ing to be efore any its in the Canada; and

and the fee for drawing such affidavit, by whomsoever done, shall be six pence, and for administering the Oath by a duly qualified person six pence, and no more in either case, and shall be, together with the postages on the papers transmitted by mail, costs in the cause; and in every case of the unavoidable absence of the Bailiff by whom any summons or other process of a Court holden under this Act shall have been served, the service of such summons or other process may be proved, if the Judge shall think fit, in the same manner as a summons served out of the Division of the Court, but without additional charge to either of the parties of the suit.

Unavoidable absence of Bailiff.

LXXXIX. And be it enacted, That every Bailiff or Officer executing any process of executing issuing out of any Division Court in Upper Canada, against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person (excepting the wearing apparel and bedding of such persons or his family, and the tools and implements of his trade to the value of five pounds, which shall to that extent be protected from such seizure,) and may also seize and take any money or bank notes and cheques, bills of exchange, promissory notes, bonds, specialties or securities for money, belonging to any such person against whom any such execution shall have issued as aforesaid.

What goods may be taken in execution.

XC. And be it enacted, That the Bailiff of every such Division Court shall hold any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money which shall have been so seized or taken as aforesaid, as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff, and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby when the time of payment thereof shall have arrived; and it shall not be competent for the defendant in the original cause to discharge such suit in any way without the consent of the plaintiff or of the Judge: provided always, that the party who desires to sue for any such amount, shall in the first place pay or secure all costs that may attend the proceeding, and the moneys realized, or a sufficient part thereof, shall be paid over by the officer receiving the same to apply on the plaintiff's demand, and the overplus, if any shall be forthwith paid to the defendant in the original suit, under the direction of the Judge.

How money and securities for money shall be dealt with after seizure.

Proviso: security to be given for costs, &c.

XCI. And be it enacted, That it shall be lawful for any party who has obtained any unsatisfied

A defendant against whom

there shall be an unsatisfied judgment, may be summoned and examined as to his means of satisfying the same.

judgment or order in any Division Court, for the payment of any debt or damages or costs to obtain a summons from any Division Court within the limits of which the defendant in any such suit shall then dwell or carry on his business, such summons to be in such form as the Judge of such Court shall from time to time direct, and to be served personally upon the person to whom it is directed, requiring him to appear at such a time and place as shall be directed in such summons, to answer such things as are named in such summons, and if he shall appear in pursuance of such summons, he may be examined upon oath, touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability which is the subject of the action in which judgment has been obtained against him, and as to the means and expectation he then had, and as to the property and means he still hath, of discharging the said debt or damages or liability, and as to the disposal he may have made of any property, and the person obtaining such summons as aforesaid and all other witnesses whom the Judge shall think requisite, may be examined upon oath, touching the enquiries authorized to be made as aforesaid; and the costs of such summonses and of all proceedings thereon, shall be deemed costs in the cause, unless the Judge shall otherwise order and direct.

Proceedings if a defendant shall refuse to attend or to be examined, or shall have contracted the debt, without reasonable expectation of being able to satisfy it, or be guilty of any fraud, &c.

XCII. And be it enacted, That if the party so summoned shall not attend as required by such summons, and shall not allege a sufficient reason for not attending, or shall if attending, refuse to be sworn or to declare any of the things aforesaid, or if he shall not make answer touching the same to the satisfaction of such Judge, or if it shall appear to such Judge either by examination of the party or by any other evidence, that such party in incurring the debt or liability which is the subject of the action in which judgment has been obtained, has obtained credit from the plaintiff under false pretences or by means of fraud or breach of trust, or has wilfully contracted such debt or liability without having had at the same time a reasonable expectation of being able to pay or discharge the same, or shall have made or caused to be made any gift, delivery, or transfer of any property, or shall have removed or concealed the same with intent to defraud his creditors or any of them, or if it shall appear to the satisfaction of the Judge that the said party so summoned has then or has had since the Judgment obtained against him sufficient means and ability to pay the debt or damages, or costs so recovered against him, either altogether or by any instalment or instalments which the Court in which the judgment was obtained shall have ordered, and if he shall refuse or neglect to pay the same as shall have been so ordered, or as

shall
shall
any s
Coun
not ex

XC
ful fo
whom
fit, wi
the de
previo
for the
mages
for pay
with, d
may t

XC
where
Divisi
with th
trial o
adjour
ant, sh
aminin
parties
of com
as he r
contain
purpos

XC
order o
said, th
seal of
liff of
warran
whom's
Officers
cution
of the
receive
the pre
course
cate gr
solvent
from an

XC
under t
faction

shall be ordered pursuant to the power hereinafter provided, it shall be lawful for such Judge, if he shall think fit to order that any such party may be committed to the Common Gaol of the County in which the party summoned is resident, for any period not exceeding forty days.

XCIII. And be it enacted, That it shall be lawful for the Judge of any Division Court before whom such summons shall be heard, if he shall think fit, whether or not he shall make any order for the committal of the defendant, to rescind or alter any order that shall have been previously made against any defendant so summoned before him for the payment, by instalments or otherwise, of any debt or damages recovered, and to make any further or other order, either for payment of the whole of such debt damages and costs forthwith, or by any instalments, or in any other manner, as such Judge may think reasonable and just.

Order allowing payments by instalments may be rescinded.

XCIV. And be it enacted, That in every case where the defendant in any suit brought in any Division Court shall have been personally served with the summons to appear, or shall personally appear at the trial of the same, the Judge, at the hearing of the cause or at any adjournment thereof, if judgment shall be given against the defendant, shall have the same power and authority of examining the defendant and the plaintiff and other parties, touching the several things hereinbefore mentioned, and of committing the defendant to prison, and of making an order, as he might have and exercise under the provisions hereinbefore contained in case the plaintiff had obtained a summons for that purpose after the judgment obtained as hereinbefore mentioned.

Defendant personally appearing in any case may be examined.

And the Plaintiff.

XCIV. And be it enacted, That whenever any order of commitment shall have been made as aforesaid, the Clerk of the said Court shall issue under the seal of the Court, a warrant of commitment directed to the Bailiff of any Division Court within the County, who by such warrant shall be empowered to take the body of the person against whom such order shall be made; and all Constables and other peace Officers within their respective jurisdictions shall aid in the execution of every such warrant, and the gaoler or keeper of the Gaol of the County in which such warrant shall issue, shall be bound to receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by due course of law; and no protection, order or certificate granted by any Court of Bankruptcy, or for the relief of insolvent debtors shall be available to discharge any defendant from any commitment under such last mentioned order.

Proceedings in case of committal by the Court.

No protection available.

XCVI. And be it enacted, That no imprisonment under this Act shall in anywise operate as a satisfaction or extinguishment of the debt or other cause

Imprisonment not to act as an extinguishment of the debt, &c.

of action on which a judgment has been obtained, or protect the defendant from being anew summoned and imprisoned for any new fraud or other default rendering him liable to be imprisoned under this Act, or deprive the plaintiff of any right to take out execution against the defendant, in the same manner as if such imprisonment had not taken place.

Mode of executing warrant of execution, or commitment out of the County in which it is obtained.

XCVII. And be it enacted, That in all cases where a warrant of execution shall have issued against the goods and chattels of any party, or an order for his commitment shall have been made under this Act, and such party or his goods and chattels shall be out of the County, it shall be lawful for the Bailiff of the Court either to execute such warrant of execution or of commitment himself, in any County or place where such party or his goods may be, or to send the same to the Clerk of any other Division Court constituted under this Act, within the jurisdiction of which such party or his goods and chattels shall then be or be believed to be, with a warrant thereto annexed under the hand of a Bailiff of the Court and seal of the Court from which the original warrant issued, requiring execution of the same, and the Clerk of the Court to which the same shall be sent shall seal or stamp the same with the seal of his Court, and issue the same to a Bailiff of his Court, and thereupon such last mentioned Bailiff shall be authorized to act in all respects as if the original warrant of execution or commitment had been directed to him by the Court of which he is a Bailiff, and shall within such time as this Act directs,

Payment of moneys levied.

return to the Bailiff of the Court from which the same originally issued, what he shall have done in the execution of such process, and in case a levy shall have been made, shall within such time as this Act directs, pay over all moneys received in pursuance of the warrant to the Bailiff of the Court from which the same shall have originally issued, retaining the fees for execution of the process; and where any order of commitment shall have been made and the person apprehended,

Place of imprisonment.

he shall be forthwith conveyed, in custody of the Bailiff or Officer apprehending him, to the Gaol of the County in which he shall have been apprehended, and kept therein for the time mentioned in the warrant of the commitment, unless sooner discharged under the provisions of this Act, and all constables and other Peace Officers shall be aiding and assisting within their respective Counties in the execution of such warrant.

In certain cases the Judge may suspend execution, &c.

XCVIII. And be it enacted, That if it shall at any time appear to the satisfaction of the Judge, by the oath or affirmation of any person or otherwise, that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt and damages recovered against him,

protect the de-
for any new
isoned under
out execution
ch imprison-

in all cases
have issued
party, or an
e been made
is goods and
wful for the
of execution
e where such
Clerk of any
thin the juris-
els shall then

enexed under
rt from which
f the same,
ent shall seal
the same to a
d Bailiff shall
varrant of ex-
the Court of
s Act directs,
om which the
have done in
all have been
pay over all
Bailiff of the

ssued, retain-
e any order of
apprehended,
ustody of the
, to the Gaol
ave been ap-
d in the war-
under the pro-
eace Officers
e Counties in

it shall at any
Judge, by the
therwise, that
fficient cause,
d against him,
or

or any instalment thereof ordered to be paid as aforesaid, it shall be lawful for the Judge in his discretion to suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as the Judge shall think fit, and so from time to time until it shall appear by the like proof as aforesaid, that such temporary cause of disability has ceased.

XCIX. And be it enacted, That any person imprisoned under this Act, who shall have paid or satisfied the debt or demand or the instalment thereof payable, and the costs remaining due at the time of the order of imprisonment being made, together with the costs of obtaining such order, and all subsequent costs, shall be discharged out of custody, upon the certificate of such payment or satisfaction, signed by the Clerk of the Court, or by leave of the Judge of the Court in which the order of imprisonment was made.

Defendant im-
prisoned to be
discharged on
payment of debt
and costs.

C. And be it enacted, That if any Officer or Bailiff of any Court holden under this Act, (or his Deputy or Assistant,) shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made, of any goods and chattels or other property seized under a process of the Court, the person so offending shall be liable to a fine not exceeding five pounds, to be recovered by order of the Court, or before a Justice of the Peace of the County in which such Court is situate, as hereinafter provided, (and to be imprisoned for any term not exceeding three calendar months;) and it shall be lawful for the Bailiff of the Court, or any peace officer in any such case, to take the offender into custody, (with or without warrant,) and bring him before such Court or Justice accordingly.

Punishment for
assaulting Bailiff
or rescuing goods
seized.

CI. And be it enacted, That in case any Bailiff of any Division Court holden under this Act, who shall be employed to levy any execution against goods and chattels, shall, by neglect or connivance or omission, lose the opportunity of levying any such execution, then upon complaint of the party aggrieved by reason of such neglect, connivance or omission, if he shall think fit so to do, (and the fact alleged being proved to the satisfaction of the Court, on the oath of any credible witness,) the Judge shall order such Bailiff to pay such damages as it shall appear the Plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution issued, and the Bailiff shall be liable thereto; and upon demand made thereof, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing judgments recovered in the said Court.

Penalty on Bailiff
causing loss to a
Plaintiff by neg-
lect or connivance.

How claims by third parties to or upon goods seized in execution, shall be determined.

CII. And be it enacted, That if any claim shall be made to or in respect to any goods or chattels, property or security, taken in execution or attachment under the process of any Court holden under this Act, or by any person not being the party against whom such process has issued, it shall be lawful for the Clerk of the Court, upon application of the officer charged with the execution of such process, or for the officer himself, as well before as after any action brought against such officer, to issue a summons calling before the said Court, at the next sitting thereof for the Division, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in any of Her Majesty's Superior Courts of Record or in a Local or Inferior Court in respect of such claim, shall be stayed, and the Court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such summons, and that the goods and chattels or other property were so taken in execution or upon attachment, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the Division Court, and the Judge of the Division Court at such next sitting, or as soon after Court as convenient, shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings, as to him shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court, and such order shall be final and conclusive between the parties.

Application of penalties under this Act.

CIII. And be it enacted, That the moneys arising from any penalties, forfeitures and fines imposed by this Act, when paid and levied, shall (if not by this Act directed to be otherwise applied,) from time to time be paid to the Clerk of the Court by which the same shall be imposed, and shall be paid by him into the hands of the Treasurer of the County to be accounted for as part of the Fee Fund.

Proceedings for recovery of penalties before a Justice of the Peace.

CIV. And be it enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable before a Justice of the Peace, it shall be lawful for such Justice to summon before him the party complained against, and on such summons to hear and determine the matter of such complaint, and on proof of the offence to convict the offender, and to adjudge him to pay the penalty or forfeiture incurred, and to proceed to recover the same, although no information in writing shall have been exhibited before him, and all such proceeding by summons without information in writing, shall be as valid and effectual to all intents and purposes, as if an information in writing had been exhibited.

CV
any
mitte
may

Be
in the
before
Peace
actin
Maje
of thi
the sa
to for
to be
for th
hand

CV
or jud
any of
vacate

CVI
the ex
actions
for an
tried in
comme
mitted,
notice
thereof
least be
shall r
sufficie
such ac
of mone
behalf d
for the
special

CVII
shall br
Superior
grievanc
Court h
process
action s
sum of
the Plai

CV. And be it enacted, That in all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following, that is to say:—

Form of conviction for offences against this Act.

Be it remembered, That on this _____ day of _____ A. B. is convicted before _____ one of Her Majesty's Justices of the Peace for the county of _____ or before a Judge acting under an Act passed in the _____ year of the Reign of Her Majesty Queen Victoria, intituled, *An Act, &c., (insert the title of this Act,) of having (note the offence); I, (or we) the said _____ do adjudge the said _____ to forfeit and pay for the same the sum of _____ or to be committed to the Common Gaol of the County of _____ for the space of _____ : Given under hand and seal, the day and year aforesaid.*

CVI. And be it enacted, That no order, verdict or judgment, or other proceedings made concerning any of the matters aforesaid, shall be quashed or vacated for any matter of form.

No proceedings to be quashed, &c., for want of form.

CVII. And for protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be laid and tried in the County where the fact was committed, and shall be commenced within six calendar months after the fact was committed, and not afterwards or otherwise; and notice in writing of such action and of the cause thereof shall be given to the Defendant, one calendar month at least before the commencement of the action; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the defendant, and it shall be lawful in any such action for the defendant to plead the general issue, and to give any special matter arising under this Act under such plea.

Protection of persons acting under this Act.

Notice of action.

Tender of amends.

CVIII. And be it enacted, That if any person shall bring any suit in any of Her Majesty's Superior Courts of Record in respect of any grievances committed by any Clerk, Bailiff or Officer of any Court holden under this Act, under colour or pretence of the process of the said Court, and the Jury upon the trial of the action shall not find greater damages for the Plaintiff than the sum of Two Pounds Ten Shillings, no costs shall be awarded to the Plaintiff in such action, unless the Judge shall certify in

In certain cases the Plaintiff shall recover no costs.

Court

Court upon the back of the record, that the action was fit to be brought on in such Superior Court.

Recital.

CIX. And whereas the amount of business in certain Divisions is not so great as to require the holding of Courts therein once in every two months, while from the remoteness and inaccessibility of the same, the holding of the said Courts therein is, especially at certain seasons of the year, attended with great difficulty: Be it therefore enacted, That if

Governor may fix periods of holding Courts.

it shall be certified to the Governor in Council, by the Magistrates of any County in Quarter Sessions assembled, that in any Division of such County, it is expedient for the above causes that such Courts should be held there less frequently than once in every two months, it shall and may be lawful for the Governor in Council, to order such Courts to be held therein, at such periods as to him shall seem meet: Provided always, that such Courts shall be held in any such Division at least once in every six months, and that it shall be lawful for the Governor in Council to revoke any such order at pleasure.

Judges to require accounts on oath from Clerks.

CX. And be it enacted, That it shall be the duty of the Judge of each County Court to require from the respective Clerks within his County, at least semi-annually, a detailed statement, to be verified on oath before such Judge, of all fees and emoluments, which statement shall be filed by such Judge, with the said Treasurer: Provided always, that after this Act shall come into force it shall not be lawful for any County Court Clerk to be appointed or execute the office of Clerk of any Division Court.

Proviso.

Interpretation of word "County."

CXI. And be it enacted, That in construing this Act, the word "County" shall include any two or more Counties united for judicial purposes, and in any form or proceeding, the words "United Counties" shall and may be introduced according to law, and circumstances rendering the same necessary.

Proceedings under repealed Acts to continue.

CXII. Provided always, and be it enacted, That all proceedings in the execution of the said Acts in the Preamble of this Act recited, or any of them, commenced before the passing of this Act, or before the day appointed for its going into operation, shall be as valid to all intents and purposes as if this Act had not been passed, and may be continued, executed and enforced against all persons liable thereto in the same manner as if they had been commenced under the authority of this Act.

Commencement of Act.

CXIII. And be it enacted, That this Act shall come into force on the first day of January next, and not before.

Amended, see Division Courts Extension Act, 16 Vict., Cap. 177, on page 548, in this work.

SCHEDULE A.

TABLE OF FEES.

	Not exceeding £2.	Exceeding £2 and not exceeding £3.	Exceeding £3 and not exceeding £10.	Exceeding £10 and not exceeding £15.	Exceeding £15
FEE FUND.					
Entering account and issuing summons	S. D.	S. D.	S. D.	S. D.	S. D.
Hearing an undefended cause	0 4	0 6	1 3	2 0	3 0
Hearing a defended cause	0 6	0 9	1 3	3 0	3 0
Every order or judgment, (none to be charged when the Defendant has given a confession of judg- ment)	1 0	2 0	3 0	5 0	7 6
On every confession of judgment	0 3	0 6	0 9	1 3	2 0
On every confession of judgment	0 3	0 3	0 3	0 6	0 6
CLERK'S FEES.					
Entering every account, and issuing Summons.....	0 3	0 6	1 0	1 3	1 6
Copy of Summons, particulars of demand or set-off, when not furnished by Plaintiff or Defendant, each	0 3	0 6	0 6	0 6	0 6
Every summons to Witness, in which any number of names may be included.....	0 3	0 3	0 3	0 3	0 3
Adjournment of any cause	0 3	0 6	0 9	0 9	0 9
Entering set-off or other defence requiring notice to the Plaintiff	0 6	0 9	1 0	1 0	1 0
Entering every judgment	0 6	0 6	0 9	1 0	1 0
Every search into a proceeding over a year old.....	0 6	0 6	0 6	0 6	0 6
Taking confession of judgment	0 6	0 6	0 6	0 9	1 0
Every Warrant, Attachment or Execution.....	0 6	1 0	1 6	1 6	1 6
To the Clerk for taking charge of and keeping the property seized, such sum as the Judge may order in each particular case	1 3	1 3	1 3	1 3	1 3
For every copy or Certificate of Judgment to another County.....	5 0	5 0	5 0	5 0	5 0
Deposit to be paid by party requiring Jury	0 6	0 9	1 0	1 0	1 6
Entering and giving notice of Jury being required	2 6	2 6	5 0	5 0	5 0
Making out Summons for the fifteen Jurors, to be apportioned between and paid in the first instance by parties applying for Juries					
THE BAILIFFS' FEES.					
Service of Summons, or other proceeding, except Subpoena, on each person	0 4	0 6	0 9	0 9	1 0
Service of Subpoena on each Witness	0 4	0 4	0 4	0 4	0 4
For taking Confession of judgment	0 4	0 6	0 6	0 9	1 0
Drawing and attending to swear to every affidavit of service of Summons, when served out of the Division	1 0	1 0	1 0	1 0	1 0
Enforcing every Warrant, Execution or Attach- ment, against the goods or body.....	1 6	1 6	3 0	3 0	3 0
For every mile necessarily travelled from the Clerk's Office, to serve Summons or Subpoena, and in going to seize on execution or Attach- ment where money made or case settled after the levy, &c.					
For every Jury trial.....	0 6	0 9	1 0	1 6	
For carrying delinquent to prison, including all expenses and assistance, per mile, 1s.					
Every Schedule of property seized, return, inclu- ding affidavit of appraisal	2 6	2 6	2 6	5 0	
Every bond, including affidavit of justification.....	2 6	2 6	2 6		
Every notice of sale not exceeding three, under execution, on attachment, &c. each					
That there be allowed to the Bailiff upon the sale of property under any execution the sum of two and a half per cent. upon the amount realised, and not to apply to any overplus on the said execution.					

SCHEDULE B.

FORM OF SUMMONS.

Between { A. B., Plaintiff,
and
C. D., Defendant.

To C. D., the above named Defendant.

You are hereby summoned to be and appear at the next sittings of the first (*or, as the case may be*) Division Court in and for the County of (*or United Counties of*) as *the case may be* to be holden at in the Township of

on the
day of 18 , to answer the above named Plaintiff for the causes set forth in the Plaintiff's statement of claim hereunto annexed, numbered

, and that in the event of your not so appearing the Plaintiff may proceed to obtain judgment against you by default.

Dated this day of 18 .
By the Court, Clerk.

NOTICE.

Take notice that if the Defendant desires to set off any demand against the Plaintiff at the trial or hearing of the cause, notice thereof containing the particulars of such demand must be left with the Plaintiff or at his usual place of abode if living within the Division, or with the Clerk of the said Court if the Plaintiff resides without the Division, at least six days before the said trial or hearing, and that if the Plaintiff or Defendant desire to take the benefit of any Statute of Limitation or other Statute, notice thereof must be left in like manner with the said Plaintiff or the Clerk at least six days before the said trial or hearing.

(*Indorsement to be made on the Summons after the service thereof.*)

This Summons was served by me, X. Y., on the
day of 18 .

X. Y.

SCHEDULE C.

COVENANT BY THE CLERK OR BAILIFF.

Know all men by these presents, that we J. B., Clerk (*or Bailiff, as the case may be*) of the Division Court number in the County of S. S., of said County of , and P. M., of said County of

do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that J. B., Clerk (*or Bailiff*) of the said Division Court (*as the case may be*)

plaintiff,
and
defendant.

the next sit-
court in and
as

the
for the above
tiff's state-

the Plain-
default.
18 .

Clerk.

off any de-
the cause,
demand must
ade if living
Court if the
days before
Defendant
ion or other
with the said
aid trial or
vice thereof.)

X. Y.

., Clerk (or
nber
in the
in the

r each of our
omise that J.
the case may
be)

be) shall duly pay over to such person or persons entitled to the same, all such moneys as he shall receive by virtue of the said Office of Clerk (or Bailiff, as the case may be) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (or Bailiff) by Law, and shall not misconduct himself in the said Office to the damage of any person being a party in any legal proceeding; nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties thereunto than as follows, that is to say:

Against the said J. B. in the whole,

Against the said S. S.....

Against the said P. M.....

In witness whereof, we have to these presents set our hands and seals, this day of in the year of Our Lord one thousand eight hundred and
Signed, sealed and delivered, }
in the presence of

SCHEDULE D.

County of

}
A. B. of in the County of (here state the County)
the Plaintiff (or Agent, as the case may be) maketh oath and saith that C. D., (the debtor's name) is (or are) justly and truly indebted to (the creditor's name) in the sum of of lawful money of Canada, for (here state the cause of action briefly); and this Deponent further saith, that he hath good reason to believe, and verily doth believe, that the said C. D. hath absconded from this Province, and hath left personal property liable to seizure under execution for debt within the County of ; or that the said C. D., is (or are) about to abscond from this Province, or to leave the County of with intent and design to defraud the said (the creditor) of the said debt, taking away personal estate liable to seizure under execution for debt; or that the said C. D. is concealed within the County of to avoid being served with Process, with intent and design to defraud the said (the creditor) of his said debt; and this Deponent further saith, that this affidavit (or affirmation, as the case may be,) is not made, nor the Process thereon to be issued, from any vexatious or malicious motive whatever.

A. B.

Signature of Deponent.

Sworn (or affirmed as the case may be) before me, the day of one thousand eight hundred and

SCHEDULE E.

County of _____ }
(here insert the County.) }

To A. B., Bailiff of the Division Court of the said County of _____
(or to A. B., a Constable of the County of _____)
(as the case may be.)

You are hereby commanded to attach, seize, take and safely keep all the personal estate and effects of C. D., (*naming the debtor*), an absconding, removing or concealed debtor, of what nature or kind soever, liable to seizure under execution for debt within the County of (*here name the County*) or a sufficient portion thereof to secure A. B. (*here name the creditor*) for the sum of (*here state the amount sworn to be due*) together with the costs of his suit thereupon, and to return this warrant with what you shall have taken thereupon, to the Clerk of the (*here state the number of the Division*) Division Court of the aforesaid forthwith : and herein fail not.

Witness my hand and seal, the _____ day of _____
18 _____ E. F. _____ (L. S.)
Judge, Clerk, or Justice of the Peace, *(as the case may be)*.

DIVISION COURTS EXTENSION ACT, (C.W.)

CAP. CLXXVII.

AN ACT TO AMEND THE CANADA WEST DIVISION COURTS ACT, OF ONE THOUSAND EIGHT HUNDRED AND FIFTY, AND TO EXTEND THE JURISDICTION OF THE SAID COURTS.

[Assented to, 14th June, 1853.]

Preamble.

Act 13 & 14 V. c.
53. cited.

Short title assigned to said Act.

Preamble. **W**HEREAS by an Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to amend and consolidate the several Acts now in force regulating the practice of Division Courts in Upper Canada, and to extend the Jurisdiction thereof*, and in this Act called "The Upper Canada Division Courts Act of 1850," jurisdiction is given, as therein mentioned, to the Courts holden under the said Act, to hold plea of certain claims and demands of debt, account or breach of contract, or covenant, or money demand, whether payable in money or otherwise, not exceeding Twenty-five Pounds, and of claims and demands in actions of tort to personal chattels, to and inclu-

County of
County of

and safely
(naming the
tor, of what
ion for debt
efficient por-
for the sum
with the costs
h what you
ere state the
d forthwith :

day of
(L. S.)
may be).

, (C.W.)

OF ONE THOU-
JURISDICTION

une, 1853.]

in the Session
teenth years
and consoli-
gulating the
Canada, and
called "The
t of 1850,"
oned, to the
hold plea of
each of con-
ble in money
nd of claims
o and inclu-
ding

ding the amount of Ten Pounds ; And whereas it is expedient to extend the provisions of the said Act to all personal actions (except as hereinafter mentioned) not exceeding Ten Pounds, and also to amend the said Act in the manner hereinafter mentioned ; Be it therefore enacted, &c., That the jurisdiction of the several Division Courts in Upper Canada shall extend to, and the Judges of such Courts shall (in addition to the powers and jurisdiction conferred upon them by the said Act,) have power, jurisdiction and authority to hold plea of, all personal actions where the debt or damages claimed is not more than Ten Pounds ; Provided always, that the said Division Courts shall not have cognizance of any action for any gambling debt, nor for spirituous or malt liquors drunk in a tavern or ale house, or of any action brought on any Note of Hand the consideration of which was any such debt, or for liquors drunk as aforesaid ; or of any action of ejectment, or in which the title to any corporeal or incorporeal hereditaments, or to any toll, custom or franchise shall be in question, or in which the validity of any devise, bequest or limitation under any will or settlement may be disputed, or of any action for malicious prosecution, or for any libel or slander, or for criminal conversation or seduction, or breach of promise of marriage ; and the several powers and provisions of the said Upper Canada Division Courts Act of 1850, and all Rules, Orders and Regulations which have been or shall be made in pursuance of the same or of this Act, shall extend to all debts, damages and demands which may be sued for in the said Courts under the extended jurisdiction given by this Act, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto, respectively, as fully and effectually to all intents and purposes as the same respectively are now, or may be applicable to the claims and demands within the present jurisdiction of the said Courts.

Additional pow-
ers conferred on
Division Courts.

Proviso :

debt, nor for

Division Courts
not to have cog-
nizance of certain
actions.

Powers and pro-
visions of 13 & 14
V. c. 53, extend-
ed to all cases
cognizable by
Division Courts.

II. And be it enacted, That this Act and the said recited Act shall be read and construed as one Act, as if the several provisions in the said recited Act, not inconsistent with the provisions of this Act, were repeated and re-enacted in this Act.

The said Act and
this Act to be
construed as one.

III. And be it enacted, That there shall be payable on every proceeding in the said Division Courts, and to the Clerks and Bailiffs of the Courts, such fees as are set down in the Schedule to the said recited Act, marked A : and if the fees on such proceedings shall not be paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had, on

Fees payable to
be those in
Schedule to 13 &
14 V. c. 53.

Payment how en-
forced.

or before such proceeding, the payment thereof may be enforced by order of the Judge by such ways and means as any debt or damages ordered to be paid by the Court can be recovered:

Proviso:

Judge may increase the fee in certain cases.

Provided always, that it shall be lawful for the Judge of every Division Court, at the trial of any cause in the said Court, to increase the fee for hearing any defended cause to a sum not exceeding Ten Shillings, whether the debt, damages or subject matter of the action is for a sum under or over Ten Pounds, or for the sum of Ten Pounds.

Judge may with consent of parties refer any case to arbitration;

Award to be entered as a judgment.

Proviso:

Award may be set aside by the Judge, for cause.

IV. And whereas it is desirable to extend the law of Arbitration to Division Courts, Be it therefore enacted, That the Judge holding any Division Court may, in any case, with the consent of both parties to the suit, or of their agents, order the same, with or without other matters within the jurisdiction of the Court, in dispute between such parties, to be referred to arbitration to such person or persons, and in such manner and on such terms as he shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Judge; and the award of the Arbitrator or Arbitrators or Umpire, shall be entered as the judgment in the cause and shall be as binding and effectual, to all intents and purposes, as if given by the Judge: Provided that the Judge may, if he shall think fit, on application to him within fourteen days after the entry of such award, set aside such award so given as aforesaid, or may with the consent of both parties, as aforesaid, revoke the said reference and order another reference to be made in the manner aforesaid.

How witnesses may be compelled to appear before Arbitrators and give evidence.

Punishment of witnesses making default.

V. And be it enacted, That when any reference shall have been made by any such order as aforesaid, either of the parties to the suit may obtain from the Clerk of any Division Court a Summons requiring the attendance before the said Arbitrator or Arbitrators, of any witness resident within the County, or served with Subpoena therein, with or without a clause requiring the production of books, papers and writings in his possession or control, and that the method of compelling the attendance of a witness before the Arbitrator or Arbitrators or Umpire upon such reference, shall be in the manner prescribed by the forty-eighth Section of the said Upper Canada Division Courts Act of 1850; and parties making default in attendance, or refusing or neglecting without sufficient cause, to produce any books, papers or writings required by such Summons to be produced, may be proceeded against and punished in the manner provided for in the forty-eighth Section

by be enforced
as any debt or
be recovered:
lawful for the
trial of any
the fee for
m not exceed-
t, damages or
or over Ten

to extend the
ts, Be it there-
g any Division
consent of both
nts, order the
ers within the
parties, to be
d in such man-
and just; and
rty, except by
ator or Arbitra-
n the cause and
purposes, as if
the Judge may,
to him within
ch award, set
resaid, or may
s aforesaid, re-
ce to be made

n any reference
order as afore-
suit may obtain
rt a Summons
e said Arbitra-
the County, or
ause requiring
is possession or
attendance of a
mpire upon such
he forty-eighth
s Act of 1850;
ndance, or refu-
t cause, to pro-
gs required by
ed against and
-eighth Section
of

of the said recited Act, for disobedience of the Summons to a witness: And it shall be lawful for any one of such Arbitrators to administer an oath to the parties in such suit, and to all other persons that may be examined before such Arbitrator or Arbitrators, either on behalf of the plaintiff or defendant, or to take their affirmation in cases where affirmation is allowed by law instead of an oath; and every person who in any examination upon oath, or solemn affirmation before any such Arbitrator or Arbitrators, shall wilfully or corruptly give false evidence, shall be deemed guilty of perjury, and liable to the punishment which may, by law, be applicable to the crime of perjury.

Arbitrators may administer oath to parties or witnesses.

False swearing to be perjury.

VI. And be it enacted, That so much of the Act passed in the eight year of the Reign of Queen Anne, intituled *An Act for the better security of rents and to prevent frauds committed by tenants*, as relates to the liability of goods taken by virtue of any execution, shall not be deemed to apply to goods taken in execution under the process of any Division Court, but the land-lord of any tenement in which any such goods shall be so taken, shall be entitled by any writing under his hand or under the hand of his agent, to be delivered to the Bailiff making the levy, (which writing shall state the terms of holding, and the rent payable for the same) to claim any rent in arrear then due to him, not exceeding the rent of four weeks when the tenement is let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement is let for any other term less than a year, and not exceeding in any case the rent accruing due in one year; and in case of any such claim being so made, the Bailiff making the levy shall distrain as well for the amount of the rent so claimed, and the cost of such additional distress, as for the amount of money and costs for which the warrant of execution issued, and shall not proceed to sell the same, or any part thereof until after the end of eight days at least next following after such distress taken; and for every additional distress for rent in arrear, the Bailiff of the Court shall be entitled to have as the costs of the distress, instead of the fees allowed by the said Upper Canada Division Courts Act of 1850, the fees allowed by an Act of the Parliament of the late Province of Upper Canada, passed in the first year of Her Majesty's Reign, intituled, *An act to regulate the costs of levying distresses for small rents and penalties*; and if any replevin be made of the goods so distrained, so much of the goods taken under the said warrant of execution shall be sold, as will satisfy the money and costs for which the said warrant issued, and

Part of Statute of Anne not to apply to goods taken in execution in Division Courts: recourse of land-lord in such case.

Duty of Bailiff distraining.

Costs to Bailiff.

Act of C. W. 1 V. c. 16.

Proceedings if the goods are replevied.

the costs of the sale, and the surplus of such sale, and the goods so distrained, shall be returned as in other cases of distress for rent and replevin thereof; but no execution creditor under the said Upper Canada Division Courts Act of 1850 or this Act, shall be satisfied his debt, out of the proceeds of such execution and distress or execution only, where the tenant shall replevy, until the landlord who shall conform to the provisions of this Act shall have been paid the rent in arrear for the periods hereinbefore mentioned.

Execution credit or not to be satisfied until the landlord is paid.

Sec. 102, of 13 & 14 V. c. 53 amended.
Proceedings in case any claim to goods or chattels seized or to the proceeds thereof, be made by any landlord or other third party.

VII. And in amendment of the one hundred and second Section of the said Upper Canada Division Courts Act of 1850, Be it enacted, That if any claim shall be made to or in respect of any goods or chattels, property or security taken in execution or attached under process of any Division Court, or in respect of proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom such proceeding has issued, it shall be lawful for the Clerk of the Court, upon application of the officer charged with the execution of such process, as well before as after any action brought against such officer, to issue a Summons calling before the Court out of which such process shall have issued or before the Court holden for the Division in which the seizure under such process shall have been made, as well the party issuing such process as the party making such claim; and thereupon any action which shall have been brought in any of Her Majesty's Superior Courts of Record at Toronto, or in any Local or Inferior Court, in respect of such claim, shall be stayed, and the Court in which such action shall have been brought, or any Judge thereof, on proof of the issue of such Summons, and that the goods and chattels, property or security were so taken in execution or upon attachment, may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such Summons out of the Court, and the Judge of the Court shall adjudicate upon such claim, and make such order between the parties in respect thereof and of the costs of the proceedings, as to him shall seem fit: and such order shall be enforced in like manner as any order made in any suit brought in such Court, and such order shall be final and conclusive between the parties.

In what Division Court any suit may be entered and tried.

VIII. And be it enacted, (notwithstanding any thing contained in the Upper Canada Division Courts Act of 1850,) That all suits cognizable in a Division Court may be entered and tried in the Court holden for the Division in which the cause of action arose, or in the Court holden for the Division in which the Defendant, or where there shall be more than one Defendant, wherein one of the Defen-

and the goods
distress for
execution cre-
Division Courts
satisfied his debt,
and distress
until the land-
shall have
before men-

hundred and
ada Division
if any claim
oods or chat-
tels or at-
Court, or in
any landlord
g the party
be lawful for
icer charged
as after any
as calling be-
issued or be-
seizure under
issuing such
on any action
y's Superior
rior Court, in
which such
f, on proof of
chattels, pro-
attachment,
e costs of all
f such Sum-
shall adjudi-
n the parties
gs, as to him
like manner
art, and such
es.

tanding any
da Division
gnizable in a
rt holden for
in the Court
t, or where
of the Defen-
dants

dants shall dwell or carry on his business at the time of the ac-
tion brought, or by leave of the Judge, according to the provisions
contained in the next Section, in the Court holden for any divisi-
on (whether in the same or in an adjoining County) adjacent to
the Division in which the Defendant is resident.

IX. And whereas in certain Divisions, the places Recital.
fixed for holding the sittings of the Courts, and the offices of the
Clerks thereof, may be situate at an inconvenient distance from
the place of residence of certain parties residing in such Divi-
sions, while a Division Court is held in the same or in an adjoining
County more convenient for such parties, and it is desirable
that procedure in the said Division Courts should be made as easy
and inexpensive as may be to the suitors; Be it therefore enacted,
That any suit cognizable in a Division Court may,
by leave of the Judge of the Court in which such
suit is to be brought, be entered and tried in any
Court, (whether holden for a Division in the
County in which the defendant resides, or holden
for a Division in an adjoining County.) in which the
said Judge shall specially order such suit to be entered and
tried: and upon such order made, the defendant shall be liable to
be sued in accordance therewith in any adjoining Division Court,
whether situate in the County in which he resides, or an adjoining
County; and every such suit may be entered, tried and proceeded
with in the same manner to all intents and purposes, as if the
cause of action for which the same shall be brought, had arisen
within the Division of the Court in which leave shall be so obtain-
ed as aforesaid to enter it, and the defendant were a resident there-
in.

A suit may be
entered and tried
in any Court
specially design-
ated by the
Judge of the
Court in which it
is to be brought.

X. And be it enacted, That it shall be lawful
for the Governor of this Province, to appoint and
authorize five of the Judges of the County Courts
in Upper Canada, to frame such general rules as
to them shall seem expedient, for and concerning
the practice and proceedings of the Courts holden
under the authority of the said Upper Canada Divi-
sion Courts Act of 1850, and for the execution of
the process of such Courts, and in relation to any
of the provisions of the said Act, or of this Act, or of any Act to
be hereafter passed, as to which there may have arisen doubts,
or may have been conflicting decisions in the said Division
Courts, or as to which there may hereafter arise doubts, and also
to frame forms for every proceeding for which they shall think it
necessary that a form should be provided; and all such rules,
orders and forms as aforesaid, shall be certified to the Chief Justice
of Upper Canada, under the hands of the County Judges so ap-
pointed and authorized, or of any three of them, and shall be
submitted

The Governor
may appoint five
County Court
Judges to frame
rules of practice
for Division
Courts; which
being approved
by a Chief
Justice and three
Judges of the Su-
perior Courts of
Law at Toronto,
shall be valid.

submitted by the said Chief Justice to the Judges of the Superior Courts of Common Law at Toronto, or to any four of them, and such Judges of the Superior Courts (of whom the said Chief Justice or the Chief Justice of the Court of Common Pleas at Toronto, shall be one) may approve or disallow, or alter or amend such rules or orders, and such of the rules as shall be so approved by such of the Judges of the Superior Courts, shall have the same force and effect as if the same had been made and included in this Act; and in any case not expressly provided for

Rule in cases un-
provided for.

Courts of Common Law at Toronto, may be adopted and applied in the discretion of the Judge, to actions and proceedings in the Division Courts; and the contingent expenses

Expenses of
making and
printing rules,
how paid.

Proviso.

far as applicable, remain in force until it is otherwise ordered:

Proviso.

and Provided further, that copies of all such Rules made and approved of as herein provided, shall be forwarded by the Judges making the same, to the Governor of this Province, to be by him laid before each House of the Legislature.

Jury may be had
for trying any
fact which the
Judge shall think
ought to be so
tried.

such case a Jury of five persons present shall be returned instantly by the Clerk of the Court, to try such fact or facts as shall seem doubtful to such Judge, and the Judge may proceed to give judgment on the verdict of such Jury, or grant a new trial on the application of either party in the same way and under similar circumstances as new trials are granted in other cases on verdicts of Juries; and for the returning of such Jury

Fee.

Proviso:

Jurisdiction of
Judge not affect-
ed.

legally demanded by the parties, but as heretofore in such cases, the Judge holding such Courts, shall be the sole Judge of all actions brought in the Division Courts, and shall determine all questions as well of fact as of law in relation thereto.

the Superior
them, and
said Chief
n Pleas at
or alter or
shall be so
shall have
ade and in-
provided for
urts Act of
rules, the
e Superior
ed and ap-
ceedings in
nt expenses
val of such
paid out of
on Courts:
rms already
ce, shall, as
se ordered:
such Rules
ed, shall be
Governor of
f the Legis-

any Judge
a Division
any fact or
y a Jury, in
returned in-
acts as shall
eed to give
ew trial on
under simi-
ases on ver-
of such Jury
One Shilling
ided always,
ctend, or be
jurisdiction
has not been
such cases,
Judge of all
etermine all
o.

XII.

XII. And whereas there is no provision in the said Upper Canada Division Courts Act of 1850, requiring Clerks and Bailiffs to give security for accounting for, and for the due payment of fees, fines and moneys received by them respectively in the performance of their several duties; Be it therefore enacted, That every Clerk and Bailiff of a Division Court who may receive any fees, fines or moneys in the execution of his duty, shall give security by entering into a bond to her Majesty, Her Heirs and Successors, in such sums, with so many sureties and in such form as the Governor of this Province shall see reason to direct for the due accounting for and payment of all fees, fines and moneys received by them respectively, by virtue of their respective offices, under the said Act, or under this Act, or under any Act to be hereafter passed, and also for the due performance of the duties of their several offices; Provided always, that nothing herein contained shall affect or be construed to affect the validity of any covenant entered into, under the Upper Canada Division Courts Act of 1850, or the remedy given thereunder to persons suffering damages by the default, breach of duty, or misconduct of any Clerk or Bailiff, or affect or be construed to affect any bond or security heretofore legally given by any County Treasurer, or any Clerk or Bailiff of a Division Court.

Recital.

Clerks and
Bailiffs receiving
money, to give
security.

Proviso:

Covenants entered into under s. 22 of 13 & 14 V. c. 53, and bonds, &c., not invalidated.

XIII. And be it enacted, That the Clerk of each Division Court shall, in the month of January, in each year, make out a correct list of all sums of money belonging to suitors in the Court, which shall have been paid into Court, and which shall have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the parties for whom or on whose account the same were so paid into Court; and a copy of such list shall be put up and remain during Court hours in some conspicuous part of the Court House or place where the Court is held, and at all times in the Clerk's Office: and all sums of money which shall have been paid into Court to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years after the same shall have been paid into Court, or to the Officers thereof, and which are now in the hands of the Clerk or Bailiff, and all further sums of money which shall hereafter be paid into Court, or to the Officers thereof, to the use of any suitor or suitors, shall, if unclaimed for the period of six years after the same shall have been so paid, be applicable as part of the General Fee Fund of the Division Courts, and be carried to the account of such fund,

Clerks of Division Courts to make out, yearly, lists of moneys paid into Court and unclaimed during a certain time.

List to be posted up and such sums unclaimed, after a certain time, to go to Fee Fund.

and paid over by the Clerk or Officer holding the same, to the Treasurer of his County, and no person shall be entitled to claim any sum which shall have remained unclaimed for six years, but no time during which the person entitled to claim such sum shall have been an infant or *feme covert*, or of unsound mind, or out of the Province, shall be taken into account in estimating the six years.

Provision as to infants, &c.

Action against Bailiff, not to be brought except after certain notice, &c.

As to action where Clerk is not made a Defendant.

And as to actions where the Clerk is made a Defendant.

Interpretation Clause.

XIV. And be it enacted, That from and after the commencement of this Act, no action shall be brought against any Bailiff of a Division Court, or against any person acting by the order and in aid of any Bailiff, for anything done in obedience to any warrant under the hand of the Clerk of the Court and the Seal of the Court, until demand hath been made, or left at the residence of such Bailiff, by the party intending to bring such action, or by his Attorney or Agent in writing, signed by the party demanding the same, of the perusal and copy of such warrant, and the same hath been refused or neglected for the space of six days after such demand; and in case after such demand and compliance therewith, by shewing the said warrant to and permitting a copy to be taken thereof by

the party demanding the same, any action shall be brought against such Bailiff or other person acting in his aid, for any such cause as aforesaid, without making the Clerk of the Court who signed or sealed the said warrant Defendant, then, on producing or proving such warrant, at the trial of such action, the Jury shall give their verdict for the Defendant, notwithstanding any defect of jurisdiction or other irregularity in or appearing by the said warrant; and if such action be brought jointly against such Clerk, and also against such Bailiff, or person acting in his aid as aforesaid, then on proof of such warrant the Jury shall find for such Bailiff, and for such person so acting as aforesaid, notwithstanding such defect or irregularity as aforesaid; and if the verdict shall be given against the said Clerk, then, in such case, the Plaintiff shall recover his costs against him, to be taxed in such manner, by the proper officer, as to include the costs such plaintiff is liable to pay to the Defendant for whom such verdict shall be found as aforesaid; and in any action to be brought as aforesaid, the Defendant may plead the general issue, and give the special matter in evidence at any trial to be had thereupon.

XV. Be it enacted, That in construing this Act, the word "landlord" shall be understood to include the person entitled to the immediate reversion of the lands, or, if the property be held in joint tenancy, coparcenary or tenancy in common, shall be understood to include any one of the persons entitled to such reversion; and the word "agent," shall

ne, to the
d to claim
years, but
d to claim
eme covert,
aken into

and after
n shall be
a Court, or
in aid
y warrant
eal of the
sidence of
ion, or by
demanding
t the same
days after
emand and
id warrant
thereof by
e brought
id, for any
the Court
en, on pro-
action, the
standing
appearing
action be
so against
as afore-
d for such
standing
rdict shall
e Plaintiff
h manner,
plaintiff is
t shall be
as aforesaid,
the special

g this Act,
ood to in-
on of the
parenary
any one of
"agent,"
shall

shall be understood to mean any person usually employed by the landlord in letting of lands or in the collection of the rents thereof, or specially authorized to act in any particular matter, by writing under the hand of such landlord.

XVI. And be it enacted, That when a Junior County shall separate from a Senior County or Union of Counties, the Division Courts of such United Counties as were before the separation of such Junior County from such Union of Counties wholly within the territorial limits of such Junior County shall be, remain and continue Division Courts of such Junior County until the Justices of the Peace of such Junior County, in General Quarter Sessions assembled shall declare and appoint the number, limits and extent of the divisions for Division Courts within the limits of such Junior County, and all proceedings and judgments had and taken therein until the new Division shall come in force shall be, remain and continue proceedings and judgments of the said Division Courts respectively; and all such Division Courts shall be known as Division Courts of such Junior County by the same numbers respectively, as they were known while the said Division Courts were Division Courts of any such Union of Counties, until they are altered by the Justices of the Peace of such Junior County as herein provided.

In case of separation of United Counties, Division Courts of Junior County to remain Division Courts thereof until it be otherwise ordered.

XVII. And be it enacted, That whenever the Justices of the Peace of any County in Upper Canada, in General Quarter Sessions assembled, shall alter the number, limits and extent of the Division Courts within such County, all proceedings and judgments had and taken in any Division Court before the day when such alteration is to take effect, shall be continued and prosecuted in such Division Court of such County as the Judge of the County Court of the County in which such alteration is made shall order and direct; and all proceedings and judgments which shall be continued and prosecuted in any such Division Court, by the order or direction of the Judge of the County Court as aforesaid, shall be considered and are hereby declared to be proceedings and judgments of the said Division Court to which they shall be so transferred, and shall be as valid and affectual to all intents and purposes as if such proceedings and judgments had been commenced, prosecuted and obtained in the Division Court to which they shall be so transferred by the Judge.

In what Court proceedings shall be completed when the Divisions are altered in any County.

XVIII. And whenever a Junior County shall be separated from a Union of Counties, or the proceedings of any of the Division Courts of a Senior County be transferred to any other Division Court within the said County, upon the order or direction

All papers and documents in any suit transferred from one Court to another to be delivered over to such

person as the
Judge shall
direct.

of the Judge thereof as hereinbefore provided, the Clerks or other Officers of such Division Courts, or any of them, in whose possession shall be held any writs, papers or documents connected with or appertaining to any such Court or the business thereof, shall deliver up the said writs, papers or documents, or any of them, to such person or persons as the Judge of the said County Court shall order and direct; and any person or persons who shall refuse to deliver up such writs, papers or documents, or any of them, to such person or persons as the Judge of the County Court shall order or direct, shall be liable to be proceeded against in the same manner as persons wrongfully holding papers and documents under the provisions of the thirteenth Section of the said Upper Canada Division Courts Act of 1850.

Case of a Division
being partly in a
Senior and partly
in a Junior
County when
they are separat-
ed, provided for.

XIX. And be it enacted, That whenever after separation of any Junior County from any Union of Counties, it shall happen that the territorial limits of any of the Division Courts of the former Union of Counties shall be partly within the limits of the Junior County and partly within the limits of the Senior County, then and in such case all proceedings processes, suits, orders and judgments which are commenced in such Division Courts of the former Union of Counties, shall and may be continued and prosecuted to completion in the Division Court where the proceedings were originally commenced, or in such other Division Court of the said Senior County, as the Judge of the said Senior County shall order and direct; and the Clerks and other Officers of the said Division Courts of the said Senior County, in whose possession may be held any writs, papers or documents connected with or appertaining to any such Court or the business thereof, shall deliver over the same to the Clerk of such Division Court of such County as the Judge thereof shall order and direct.

Justices to divide
Junior County at
first Sittings
in Q. S.

XX. And be it enacted, That at the first Sittings of the General Quarter Sessions of the Peace for any Senior County, after the issue of any proclamation for separating a Junior from a Senior County the Justices there present, shall declare and appoint the number, (not less than three, nor more than twelve,) limits and extent of the several Divisions within such County or Counties, and the time when such change of Divisions shall take effect: Provided always, that if the Justices shall not or may not have made such change of Divisions at such first Sittings of the Quarter Sessions, which may have taken place after the issuing of such proclamation, it shall be lawful for them to do so at any other Sittings of such Court, but a less number of Justices shall not have power

Proviso: but
such division
may be made at
a subsequent
sitting.

provided, the
on Courts, or
writs, papers
such Court
s, papers or
persons as the
et; and any
such writs,
n or persons
et, shall be
as persons
e provisions
da Division

enever after
any Union
e territorial
f the former
within the
imits of the
s processes,
n such Divi-
and may be
vision Court
or in such
he Judge of
d the Clerks
said Senior
s, papers or
such Court
to the Clerk
thereof shall

the first Sit-
ions of the
the issue of
nior County
the number,
nd extent of
ies, and the
et: Provided
e made such
tings of the
taken place
n, it shall be
r Sittings of
have power

to rescind or alter any resolution or order made by a greater number under the provision of this Section.

XXI. And it enacted, That if any Collector shall neglect or refuse, for the space of six days after demand made in writing, to furnish the Clerk of the Division in which the Township, Town, City or Ward for which he is a Collector, is wholly or in part situate with a correct list of the names of persons liable to serve as Jurors in the Division Court, according to the provisions of the thirty-fifth Section of the Upper Canada Division Courts Act of 1850, it shall be lawful for the said Clerk to issue a Summons to be served on the said Collector, requiring him to appear at the then next sitting of the said Division Court, to show cause why he hath refused or neglected to comply with the provisions of the said Section, and which said Summons shall be personally served on the said Collector three days at least before the sitting of the said Court, and upon proof of the service of such Summons, it shall be in the power of the said Judge holding the said Division Court, to inquire into the said neglect or refusal in a summary manner, and impose such fine upon the said Collector, not exceeding Five Pounds, or give farther time to the Collector as he shall deem just, and also to make such order for the payment of the costs of the proceedings by the Collector as to the said Judge may seem meet, and all orders made by the said Judge for the payment of any fine or costs, shall be enforced by such ways and means against the said Collector as is provided for enforcing Judgment in the said Courts: Provided always, and it is hereby declared and enacted, That no person shall be compelled to serve as a Juror in any Division Court who is by law exempted from serving as a Petty Juror in any of the Superior Courts of Record in Upper Canada.

Penalty on Collector neglecting to furnish list of persons liable to serve as Jurors at Division Courts, and how enforced,

Provido.

XXII. And be it enacted, That in any Division Court from and after the passing of this Act, in any case of debt or contract brought for a demand not exceeding Forty Shillings, in which the Plaintiff shall give sufficient evidence to satisfy the Judge that the Defendant has become indebted to such Plaintiff, but the Plaintiff shall not have evidence to establish the particular amount, it shall be lawful for the Court in its discretion to examine the Plaintiff on his oath, touching the items of such account, and to give judgment thereupon accordingly, and such Judge may also under like circumstances examine the Defendant as to the amount of any payment or set off in any such case, and may give judgment accordingly for such Defendant.

Judge may examine Plaintiff or Defendant in proof of certain facts in cases not over 40s.

Notwithstanding 16 V. c. 19. Judge may cause Plaintiff or Defendant to be examined when he shall deem it right.

Canada, it shall and may be lawful for the Judge holding any Division Court in Upper Canada, to require the Plaintiff or Defendant in any cause or proceeding brought or taken before him in such Court, to be examined under oath (or solemn affirmation) whenever such Judge may think it conducive to the ends of Justice, that such examination should be so had and taken.

Judgments &c. of former Courts of Requests, to be dealt with as Judgments, &c. of Division Courts.

XXIV. And be it enacted, That the orders, decisions and judgments of the several Courts of Requests existing in Upper Canada, in force on the thirtieth day of November, one thousand eight hundred and forty-one, and still unsatisfied, shall be, and shall be taken to have been orders, decisions and judgments of the several Division Courts, to the Clerks of which the books, papers and documents connected with the business of such Courts of Requests have been delivered by order of any Judge of a District or County Court in Upper Canada, and such orders, decisions and judgments shall be carried out and enforced in the same

Proviso.

manner as similar proceedings in such Division Courts; Provided always, that no proceedings shall hereafter be taken by any Judge of a County Court to carry out and enforce such orders, decisions or judgments, unless he is satisfied by the oath of the party, and such other evidence as he may require, (all of which to be reduced to writing,) that it is just and agreeable to equity and good conscience that the same should be enforced.

Additional sum not exceeding £50 per annum, may be allowed to County Judges for travelling expenses.

XXV. And be it enacted, That in addition to the salary which may now by law be paid to the several County Judges in Upper Canada, a further sum, not exceeding Fifty Pounds a year, may be paid to each of such Judges, as an indemnity for his travelling expenses, to be paid in the same manner and out of the same funds as the salaries of such Judges are now payable by law; and the Governor of the Province may at all times issue his Warrant in favor of the County Treasurer for an amount to make up the deficiency of the salary and indemnity for travelling expenses of the Judge of any such County, and the amount of such Warrant shall be charged upon the Consolidated Revenue Fund of this Province: Provided

Proviso: considerations upon which such allowance shall be fixed.

always, that in fixing the amount to be allowed to each of such Judges, as an indemnity for travelling expenses, due regard shall be had to the extent,

ten
the
pun
the
ish
her
any
Cou
und

X
hold
have
of ju
caus
or p
may
his c
deem
and
may

X
ant
again
plead
satisf
on fil
is sum
ed for
Court
tice o
by the
ing th
place
paid t
Defen
prosec
stayed
ceipt o
Court
withst
shall p
shall b
his cos
the am
paid in
tiff in t
ment o

for and not-
the Statute
Parliament,
therein men-
ce in Upper
holding any
Plaintiff or
taken before
solemn affir-
mative to the
so had and

the orders, de-
Courts of Re-
force on the
had eight hun-
dred, shall be,
and judgments
in the books,
of such Courts
edge of a Dis-
orders, decid-
ed in the same
each Division
proceedings
Court to carry
unless he is
evidence as he
(g,) that it is
that the same

addition to
e paid to the
ada, a further
ear, may be
ndemnity for
in the same
such Judges
province may
y Treasurer
y and indem-
County, and
the Consoli-
e: Provided
be allowed
nity for trav-
ad to the ex-
tent,

tent, population, amount of business and other circumstances of the several Counties and Divisions, and the remuneration for the purpose aforesaid to be paid to the said Judges, not exceeding the said sum of Fifty Pounds annually, may be increased or diminished by the authority of the Governor in Council; but nothing herein contained shall be construed to make it necessary to fix any such allowance for travelling expenses to the Judge of any County, unless the Governor in Council shall be satisfied that under the provisions herein contained the same ought to be made.

XXVI. And be it enacted, That the Judge holding any Division Court in Upper Canada shall have power, if he thinks it conducive to the ends of justice so to do, to adjourn the hearing of any cause in order to permit either party to summon or produce further testimony, or to serve or give any notice which may be necessary to enable such party to enter more fully into his defence, or for any other cause which the said Judge may deem reasonable, upon such conditions as to the payment of costs and admission of evidence or other equitable terms as to him may seem meet.

Judge may ad-
journ the hearing
of any cause in
order to allow
production of fur-
ther evidence, &c.

XXVII. And be it enacted, That if any Defendant in any action of debt or contract brought against him in any Division Court, shall desire to plead a tender, before action brought, of a sum of money in full satisfaction of the Plaintiff's claim, he shall be at liberty so to do on filing his plea with the Clerk of the Court, before which he is summoned to appear, at least six days before the day appointed for the trial of the cause, and at the same time paying into Court the amount of the money mentioned in such plea, and notice of such plea and payment shall be forthwith communicated by the Clerk of the said Court to the Plaintiff by post (on receiving the necessary postage,) or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, less Five Shillings, to be paid over to the Defendant for his trouble, in case the Plaintiff do not further prosecute his suit, and all proceedings in the said action shall be stayed, unless the Plaintiff shall, within three days after the receipt of notice of such payment, signify to the Clerk of the said Court his intention to proceed for his demand, notwithstanding such plea, and in such case the action shall proceed accordingly, and if the decision thereon shall be for the Defendant, the Plaintiff shall pay the Defendant, his costs, charges and expenses, to be awarded by the Court, and the amount thereof may be paid over to him out of the money so paid in with the said plea, or may be recovered from the Plaintiff in the same manner as any other money payable by a Judgment of the said Court: Provided always, if the decision shall be

How Defendant
shall proceed if
he desires to
plead any tender.

Proceedings if
the Plaintiff do
not accept such
tender.

in favor of the Plaintiff, the full amount of the money paid into Court as aforesaid shall be applied to the satisfaction of his claim, and a Judgment may be pronounced against the Defendant for the balance due and the costs of suit according to the usual practice of the Court in other cases.

Plaintiff's & Defendant's Books admissible evidence.

XXVIII. And be it enacted, That the provision of the seventy-second section of the Upper Canada Division Courts Act of 1850, so far as relates to the receiving in evidence of the Plaintiff's books in certain causes in the said Courts, to the extent of Five Pounds, shall be extended and apply to any set off or plea of payment to that amount on the part of the Defendant, whose books shall in like manner be received in evidence on behalf of such Defendant; and the power to grant new trials, given to the Judges of such Courts by the said section, may be exercised by such Judges, although the granting of such new trials might postpone the issuing of execution against the Defendant, in the event of Judgment being finally given against him, for a longer period than fifty days from the service of the Summons.

Sec. 87 of 13 & 14 V. c. 53, repealed, and other provisions substituted.

XXIX. And be it enacted, That the eighty-seventh section of the said Act shall be and the same is hereby repealed, and the following section shall be substituted for and read instead thereof: "And be it enacted, That any Summons or other process, which, under this Act, shall be required to be served out of the Division of the Court from which the same shall have issued, may be served by the Bailiff of such or any other Division Court within the County holden under this Act, and such service shall be as valid as if the same had been made by a Bailiff of the Court out of which the Summons or Process shall have been issued within the jurisdiction of the Court for which he acts."

Where the summons under s. 91 of 13 & 14 V. c. 53, may be obtained.

XXX. And be it enacted, That the Summons to be issued under the ninety-first section of the said Act, may be issued from the Division Court wherein the Judgment was obtained, as well as from the Division Court within the limits of which the Defendant shall dwell or carry on his business, as is provided by such Section, and thereupon such further proceedings may be had thereon as if such summons had issued in the manner pointed out by such Section.

Clerks of Division Courts to prepare affidavits relative to service of process.

XXXI. And be it enacted, That the Clerks of the several Division Courts shall prepare the proper affidavit of service of all Summons issued out of the said Courts to the Bailiffs of such Courts respectively, stating how the same was served, the day of

ney paid into
action of his
the Defend-
ording to the

ne provision of
pper Canada
relates to the
tain causes in
extended and
t on the part of
be received in
wer to grant
e said section,
anting of such
g of execution
being finally
ays from the

he eighty-se-
and the same
section shall
hereof: "And
ocess, which,
e of the Divi-
ssued, may be
Court within
and such ser-
me had been
of which the
the jurisdie-

he Summons
section of the
Division Court
d, as well as
ch the Defen-
vided by such
may be had
anner pointed

he Clerks of
prepare the
mmons issued
illiffs of such
rved, the day
of

of such service, and the distance such Bailiff necessarily travelled to effect such service, which affidavit shall be annexed to or endorsed on the Summons; and for preparing such affidavit and administering the oath to such Bailiff, such Clerk shall receive to his own use and benefit, from the Plaintiff in the suit, the sum of Nine Pence, which may be taxed as costs in the cause; Provided that nothing herein contained shall prevnt the Judge of such Court, if he shall think fit, from requiring such Bailiff to be sworn in his presence, and to answer such questions as may be put to him touching such service and mileage.

XXXII. And be it enacted, That in citing, pleading, or otherwise referring to the said Act passed in the session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to amend and consolidate the several Acts now in force regulating the practice of Division Courts in Upper Canada, and to extend the jurisdiction thereof*, it shall in all cases whatsoever be sufficient to use the expression, "*The Upper Canada Division Courts Act of 1850*," or words, or words and figures of equivalent import; and that in citing, pleading or otherwise referring to this Act, it shall in all cases whatsoever be sufficient to use the expression, "*The Upper Canada Division Courts Extension Act of 1853*," or words, or words and figures of equivalent import; and that in pleading, citing or otherwise referring to the said Acts and any other Acts that may be hereafter passed, touching or concerning or in any wise relating to the said Division Courts, it shall in all cases whatsoever be sufficient to use the expression, *The Upper Canada Division Courts Acts*, or words of equivalent import, which shall in all cases be understood to include and refer to such and so much of the said Acts as shall be then in force touching or concerning or in any wise relating to such Courts.

Short Titles of
the several Acts
relative to Division
Courts:
of 13 & 14 V.
c. 53.

Of this Act.

Of such Acts
generally.

XXXIII. And be it enacted, That all affidavits to be used in the Division Courts, or before the Judges thereof, may be sworn before any County Judge, or any Clerk of a Division Court, or Commissioner for taking affidavits in either of the Superior Courts of Common Law in Upper Canada.

Before whom
affidavits used in
Division Courts
may be sworn.

XXXIV. And be it enacted, That this Act shall commence and take effect on the first day of July, one thousand eight hundred and fifty-three.

Commencement
of this Act.

COUNTY COURTS EQUITY ACT, (C. W.)

C A P. C X I X .

AN ACT TO CONFER EQUITY JURISDICTION UPON THE SEVERAL COUNTY COURTS IN CANADA WEST, AND FOR OTHER PURPOSES THEREIN MENTIONED.

[Assented to, 23d May, 1853.]

Preamble.

WHEREAS it is expedient to extend the jurisdiction of the several County Courts in Upper Canada to certain matters cognizable in the Court of Chancery of Upper Canada: Be it therefore enacted, &c., That the jurisdiction of the said County Courts respectively shall extend to the several matters hereinafter enumerated, and that the said County Courts respectively shall possess the like power and authority in respect of the matters hereinafter enumerated as by law is now possessed by the Court of Chancery of Upper Canada.

To what cases the Equity Jurisdiction of County Courts shall extend.

II. And be it enacted, That it shall be lawful to and for any person seeking equitable relief, to enter (personally or by Attorney) a claim against any person from whom such relief is sought, with the Clerk of the County Court of the County within which such last mentioned person resides, in any of the following cases, that is to say:

Partnership accounts.

1. A person entitled to an account of the dealings and transactions of a partnership (the joint stock or capital not having been over two hundred pounds,) dissolved or expired, seeking such account.

Debts of deceased persons.

2. A creditor upon the estate of any deceased person, such creditor seeking payment of his debt (not exceeding fifty pounds) out of the deceased's assets (not exceeding two hundred pounds.)

Legatees.

3. A legatee under the will of any deceased person, such legatee seeking payment or delivery of his legacy (not exceeding fifty pounds in amount or value) out of such deceased personal assets (not exceeding two hundred pounds.)

Residuary Legatees.

4. A residuary legatee, or one of the residuary legatees of any such deceased person seeking an account of the residue and payment or appropriation of his share therein (the estate not exceeding two hundred pounds.)

(C. W.)

VERAL COUNTY
THEREIN MEN

May, 1853.]

to extend the
County Courts
in the Court of
ted, &c., That
Courts respec-
matters herein-
County Courts
prity in respect
now possessed

all be lawful to
relief, to enter
m against any
t, with the
which such last
cases, that is to

nt of the deal-
ship (the joint
d pounds,) dis-

any deceased
ent of his debt
's assets (not

y deceased per-
his legacy (not
such deceased
ds.)

f the residuary
son seeking an
ion of his share
unds.)

5.

5. An executor or administrator of any such deceased person seeking to have the personal estate (not exceeding two hundred pounds) of such deceased person, administered under the direction of the Judge of the County Court for the County within which such executor or administrator resides.

Administration
of personals.

6. A legal or equitable mortgagee whose mortgage is created by some instrument in writing, or judgment creditor having duly registered his judgment, or person entitled to a lien for security for a debt, seeking foreclosure or sale or otherwise to enforce his security, where the sum claimed as due, does not exceed fifty pounds.

Foreclosure of
Mortgages.

7. A person entitled to redeem any legal or equitable mortgage or any charge or lien, seeking to redeem the same, where the sum actually remaining due does not exceed the sum of fifty pounds.

Redemption of
Mortgages.

8. Any person seeking equitable relief for, upon, or by reason of any act, matter, or thing whatsoever, where the subject matter involved does not exceed the sum of fifty pounds.

Equitable relief
generally.

9. Injunctions to restrain the committing of waste or trespass to property by unlawfully cutting, destroying, or removing trees or timber, may be granted by the Judge of any County Court, which injunctions shall only remain in force for a period of one month, unless sooner dissolved on an application to the Court of Chancery; Provided always, that the power to grant such injunction shall not authorize the prosecuting of the suit in the County Court, but the injunction may be extended and the suit further prosecuted to judgment or otherwise in the Superior Court, in the like manner as if the same had originated in that Court.

Injunctions to
restrain commis-
sion of waste.

Proviso.

III. And be it enacted, That such claim in the several cases enumerated above, may be similar in principle to the form set forth in Schedule A to this Act.

Form of Claim.

IV. And be it enacted, That upon entering such claim with the Clerk of a County Court, the same shall be numbered and filed by such Clerk according to the order in which it shall be entered, and thereupon a Summons, briefly stating the nature of the claim and bearing the number of the claim on the margin thereof, shall be issued under the Seal of the Court, requiring the person against whom such claim is made, on some day in the next ensuing term of such County Court, or (upon Special Order of the Judge of the County Court,) on a day to be therein named, to appear before the Judge of the said Court, to show cause, if he can, why such relief as is claimed

Proceedings on
the filing of
Claim.

claimed by the Plaintiff should not be had, or why such Order as shall be just with reference to the claim shall not be made.

Form of Writ of Summons.

V. And be it enacted, That such Writ of Summons may be in the form or to the effect in that behalf set forth in Schedule B to this Act, with such variations as circumstances may require, and shall be sealed with the Seal of the Court from which it issues, and that, when necessary, *alias* and *pluries* Writs may be issued.

Copy of Writ and Claim to be served.

VI. And be it enacted, That a copy of the said Writ of Summons, to which shall be attached a certified copy of the Plaintiff's claim so entered as aforesaid, shall be served on the Defendant ten days at least before the day appointed in the said Writ of Summons for showing cause.

Hearing on Claim: evidence, examination of parties, &c.

VII. And be it enacted, That at the time appointed for showing cause as aforesaid, the Defendant shall appear personally or by Attorney and show cause, if he can, (and if necessary by

Affidavit) why such relief is claimed by the Plaintiff should not be had against him; and each party may, on giving five clear days' notice in writing prior to any hearing, of his intention so to do, examine the other party upon the matters relating to such claim; and the Judge, on hearing the claim, and what the Plaintiff alleges in support thereof, and such other evidence whether oral or written or by Affidavit, as he may produce in that behalf, and what may be alleged on the part of the Defendant, and such evidence whether oral or written or by affidavit as he may produce in that behalf, or on production of an affidavit, that the Writ of Summons and copy of claim aforesaid have been duly and personally served on such Defendant, may, if he shall think fit, make an Order granting or refusing the relief claimed, or directing any accounts or inquiries to be taken or made, (such accounts or enquiries to be taken or made before the Judge if he shall deem such course proper or expedient, or before the Clerk of such Court, at days or times to be appointed by the Judge for that purpose,) or may direct such other proceedings to be had for the purpose of ascertaining the plaintiff's title to the relief claimed, or make such other Order as according to the nature and circumstances of the case shall seem to be just and proper; and further, the Judge may direct such persons or classes of persons as he may think necessary or fit, to be summoned or ordered to appear as parties to such claim, or on any proceedings with reference to any account or inquiries directed to be taken or made, or otherwise;

Order to be made.

and all oral evidence given by any person before such Judge relating to such claim, shall be upon the oath of the person giving the same, to be administered by or before

Oral evidence to be on oath.

before said Judge; and further, in default of the appearance of either of the parties, the said Judge may make such Order as to the payment of costs by the party in default, as to him may seem meet.

VIII. And be it enacted, That the said Judge of the County shall be the sole Judge in all actions brought in the said County Courts respectively under the jurisdiction given by this Act, and shall determine in a summary manner all questions of law or equity as well as of fact arising therein, unless the said Judge shall think it proper to have any fact or facts controverted in the action tried by a jury, or either party shall apply to have such facts tried by a Jury; and upon order made allowing a trial by Jury, such trial shall take place at the then next ensuing Sittings of such County Court, and be conducted in the same manner as other trials by Jury in the said Court are conducted, and the Judge may, unless a new trial be moved for within ten days after verdict rendered, proceed to make such Order and Decree on the verdict of such Jury as according to the nature and circumstances of the case shall seem just and proper.

IX. And be it enacted, That the Rules of decision in the said County Courts respectively, in respect to the matters aforesaid, shall be the same as govern the said Court of Chancery, (when not otherwise provided for by or under the authority of this Act) so far as the same may be held to be applicable to a Court of Summary Jurisdiction. And the said County Courts respectively, shall possess full power and authority to enforce and compel obedience to their Orders, Judgments and Decrees, in respect to all and singular the matters hereinbefore and hereinafter set forth and contained; and that all Sheriffs, Gaolers, Coroners, Constables and other Peace Officers, shall be aiding, assisting and obeying the said County Courts respectively, in the exercise of their jurisdiction, when required by any County Court so to do.

X. And be it enacted, That the Judge of the said County Court may at any time, in furtherance of justice and on such terms as he may think proper, amend such claim so filed as aforesaid, and any and every proceeding relating thereto, by adding or striking out the name of any party, or a mistake in any other respect, or by inserting other allegations, material to the case, or by conforming such claim or proceeding to the facts proved, where the amendments shall not change substantially the form of the action, and may also in any stage of

of the proceedings disregard any error or defect which shall not affect the substantial rights of the adverse party, and may make any Order for granting time to the Plaintiff or Defendant to proceed in the prosecution or defence of his suit that to such Judge may seem necessary for the ends of justice.

How Orders
may be enforced?

XI. And be it enacted, That every Order by the Judge of the County Court, made upon the hearing of any such claim as aforesaid, or in respect to such claim and suit, or in respect to the matters hereinbefore or hereinafter mentioned, may be enforced in the same manner as any Judgment or any Order of a County Court is or may be enforced in the said County Court, under the existing provisions of law in relation to the said Courts, so far as such provisions are applicable, or in such other manner as may be prescribed by Rules to be made in the manner hereinafter mentioned.

Judge to have
the same power
as Court of
Chancery to order
production of
books, advertise-
ments, &c.

XII. And be it enacted, That the Judge before or upon any hearing or trial, or upon taking any accounts or making any inquiries, shall have the same powers and authority to order the parties to produce books, papers and writings as is possessed by the Court of Chancery, and may cause advertisements for Creditors and next of kin, or other unascertained persons, and the representatives of such as may be dead, to be published in the usual forms or otherwise, as the circumstances may require, and in such advertisements, appoint a time within which such persons are to come in and prove their claims, and within which time, unless they so come in, they are to be excluded from the benefit of the Order.

No order, &c.,
to be quashed
for want of form.

XIII. And be it enacted, That no Order, Direction, Verdict, Decree or Judgment, or other proceeding made concerning any of the matters aforesaid, shall be reversed, quashed or vacated for want of form.

Summons when
to be served.

XIV. And be it enacted, That every Summons, (except the Summons at the commencement of the action,) Order, Notice or other proceeding, shall be served ten days at least before the day on which the same is returnable, or the action thereunder, intended, except where otherwise directed by the said Judge.

Costs.

XV. And be it enacted, That the costs in every action or proceeding brought or had under the authority of this Act in the said County Courts respectively, shall be paid by or apportioned between the parties in such manner as the Judge shall think fit, and that in default of any special directions the costs shall abide the event of the action or proceeding.

XVI. And be it enacted, That all affidavits to be used in the said County Courts respectively may be sworn before any Judge or Clerk of the said Courts, or before any Commissioner for taking affidavits in the Superior Courts at Toronto.

Affidavits.

XVII. And be it enacted, That any claim as aforesaid entered in a County Court under the provisions of this Act, shall be removable by either party into the Court of Chancery by Order of the said Court to be obtained on a summary application by motion or petition supported by affidavit, of which reasonable notice shall be given to the opposite party, and the said Order shall be made on such terms as to payment of costs, giving security in respect to the relief claimed and costs, or upon such other terms as to the said Court of Chancery shall seem reasonable, just and proper; but no claim shall be so removed as aforesaid, unless the said Court of Chancery shall be of opinion that the same is of such a nature as to render it proper that the same should be withdrawn from the jurisdiction of the said County Court, and disposed of in the said Court of Chancery.

Claims may in certain cases be removed into Chancery.

XVIII. And be it enacted, That either party may appeal to the said Court of Chancery against any Order or Decree made by the Judge in any County Court under the provisions of this Act; and the said Court of Chancery shall make such Order thereupon in respect to costs or otherwise, or for referring back the same matter to the Judge before whom the same has been first heard, as shall be just and proper; Provided always, That before the County Court Judge shall be called on to certify the said Order or other matter appealed against to the said Court of Chancery, the party appealing shall enter into a recognizance, with sufficient bail to the satisfaction of the said Judge, to pay the sum decreed in case no relief shall be had on such appeal, or to obey the said Order, (or as the case may be,) and that when the party appealing appears by Attorney, an affidavit shall be made by such Attorney, that the appeal is not intended for delay as he believes, and that there is in his opinion probable cause for reversing the Order or Decree against which the appeal is made; and the said Court of Chancery shall specially make the necessary regulations for the practice to be observed in proceedings under this and the next preceding section.

Appeal given to Chancery.

Proviso.

Chancery may make regulations.

XIX. And in order that procedure under this Act may be fully traced out, and from time to time be improved and rendered as simple, speedy and cheap as may be—Be it enacted, That it shall be the duty of the Judges of the said Court of Chancery, and they are hereby

Chancery to frame general Rules and Orders for carrying this Act into effect.

hereby authorized and empowered to frame such General Rules and Orders and all such forms as to them shall seem expedient, for and concerning the practice and proceedings in the said County Courts in relation to the powers conferred on such Courts by this Act, and for the execution of the Orders and Process under this Act, and in relation to any of the provisions thereof as to which there may arise doubts; and from time to time to alter and amend such Rules, Orders and Forms, and also the forms and mode of procedure prescribed by this Act; and such Rules, Orders and Forms as shall be made and framed by the said Judges or any two of them, (of whom the Chancellor of Upper Canada shall be one,) shall from and after a day to be named therein, be in force in every County Court in Upper Canada, and shall be of the same force and effect as if the same had been embodied in this or some other Act of Parliament.

Fees payable to
Fee Fund.

XX. And be it enacted, That there shall be payable on every proceeding for equitable relief or other proceeding under this Act in the said County Courts respectively, the fees which are set down for such proceeding respectively in the Schedule to this Act marked C, and that the Clerks of the said County Courts respectively, shall keep a separate account of such fees, and shall render an account to the Receiver General of fees in his County, and shall pay over the amount of such fees to such Receiver General, under the same

How to be
accounted for, &c.

liabilities, securities and conditions, and to be accounted for in like manner as the present General Fee Fund of the County, and that the several provisions of the Act passed in the eighth year of Her Majesty's Reign and intitled, *An Act to amend, consolidate and reduce into one Act, the several Laws now in force, establishing or regulating the practice of District Courts in the several Districts of that part of this Province formerly Upper Canada*, in relation to the receiving, accounting for and paying over fees, and in relation to the responsibilities and duties of County Treasurer and Clerks, shall apply to the fees under this Act as fully as if the said provisions were herein contained and re-enacted.

Other Fees.

XXI. And be it enacted, That there shall be payable to the Clerk of every County Court, and to the Sheriff of every County respectively, the fees which are set down for such proceedings respectively in the Schedule to this Act annexed marked D, and that the scale of costs to be paid to Attorneys and Counsel in the said County Courts, as between party and party, for proceedings under this Act, shall be according to Schedule E to this Act annexed.

No costs to Plain-
tiff proceeding in

XXII. And be it enacted, That if any action or proceeding be commenced in the said Court of Chancery

General Rules
expedited,
said Coun-
Courts by
cess under
ereof as to
om time to
Orders and
scribed by
all be made
f whom the
and after a
y Court in
ect as if the
of Parlia-

shall be pay-
le relief or
Courts re-
proceeding
and that the
keep a sep-
ount to the
y over the
r the same
nd to be ac-
General
ions of the
and intu-
reduce into
regulating
of that part
to the re-
relation to
and Clerks,
ne said pro-

re shall be
the Sheriff
down for
Act annex-
Attorneys
party and
ng to Sche-

y action or
d Court of
Chancery

Chancery after this Act shall come into force, for any cause or claim which might have been entered in a County Court under this Act, no costs shall be taxed against the Defendant in such action or proceeding, and the Defendant, if he shall succeed in his action, shall be entitled of right to a Decree against the Plaintiff for his costs, as between Attorney and Client, unless the said Court of Chancery shall be of opinion that it was a fit cause or claim to be withdrawn from a County Court and entered in the said Court of Chancery.

Chancery instead
of under this
Act.

Exception.

XXIII. And be it enacted, That this Act, and the several Acts of Parliament now in force relating to County Courts, or affecting in any way their powers or practice, shall be read and construed as one Act, as if the several provisions therein contained, not inconsistent with the provisions of this Act, or inapplicable to an equitable jurisdiction, were repealed and re-enacted in this Act.

This Act incorpo-
rated with other
County Court
Acts.

XXIV. And be it enacted, That in construing this Act and the Schedules thereto, the following words shall have the several meanings hereby assigned to them over and above their several ordinary meanings, unless there be something in the subject or context repugnant to such construction, viz.: The words "person" or "party" shall be understood to mean a body politic or corporate as well as an individual, and every word importing the singular number, shall, when necessary to give full effect to the enactments herein contained, be understood to mean several persons or things as well as one person or thing; and every word importing the masculine gender shall, when necessary, be understood to mean a female as well as a male; and the word "affidavit" shall include affirmation, and the word "legacy" shall include an annuity and a specific as well as a pecuniary legacy; the word "legatee" shall include a person interested in a legacy; and the words "residuary legatee" shall include a person interested in the residue; and the word "County" shall include any two or more Counties united for judicial purposes.

Interpretation
clause.

Person.

Singular number.

Gender.

Affidavit.

Legacy.

Legatee, &c.

County.

Short Title of
this Act.

XXV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal instruments and other proceedings, it shall be sufficient to use the expression, "The County Courts Equity Extension Act."

XXVI. And be it enacted, That this Act shall commence and take effect on the Thirty-first day of December next after the passing hereof.

Commencement
of Act.

SCHEDULE A. (See Section III.)

In the County Court of the County of
A. B., of the Township of _____ in the said County,
states, that from the _____ day of _____ down to
the _____ day of _____ he, and C. D., of the
Township of _____ in the said County, carried on the
business of _____ in copartnership, under certain articles of
copartnership, dated the _____ day of _____ and
made between the said A. B. and the said C. D., on the
_____ day of _____ (or under a verbal agreement,
&c., as the case may be), that the said Copartnership was dissolved
(or expired, as the case may be,) on the _____ day of _____
yet that the said C. D. refuses to account with the
said A. B. concerning the dealings and transactions thereof. The
said A. B. claims relief in the premises, and that an account of
the partnership dealings and transactions between the said A. B.
and C. D., may be taken, and the affairs and business of the said
Copartnership wound up and settled under the directions of the
Court, and such further relief given as may be just and proper.
And the said A. B. requests that a Writ of Summons be issued
from the Court, according to the Statute in that behalf, requiring
the said C. D. to appear on the _____ day of _____
before the Judge of the Court, to show cause, if he can, why the
relief claimed by the said A. B. should not be had, and such
Order in the premises made as may be just.

Dated the _____ day of _____

A. B. in person.

(Or A. B. by J. P., one, &c.)

SCHEDULE B. (See Section V.)

Victoria, &c.,

(County of _____)

To C. D. of _____

GREETING :

[L. S.] You are hereby summoned to appear either in person
or by attorney before His Honor the Judge of the County Court
of the County of _____ on the _____ day of _____
at twelve o'clock noon, at the Court House in the
town of _____ to answer the complaint of A. B. of the,
&c., who has filed a claim against you in this
Court for an account of the dealings and transactions respecting
a partnership between you and the said A. B. now expired, (or
as the same may be, stating briefly the nature of the claim) a certified
copy of which claim is hereunto attached, and you are required
then and there to show cause, if you can, why such relief as is
claimed by the said A. B. should not be had, or why such Order

as shall be just, with reference to the claim, shall not be made.

Witness,
Court of the County of
day of

Esquire, Judge of the County
at this

SCHEDULE C. (See Section XX.)

Fees to be received by the Clerk and to belong to and to be paid over to the Fee Fund.

Every claim filed, *One Shilling and Three Pence*; Every Writ of Summons, or other Writ under the Seal of the Court, *One Shilling and Three Pence*; every Order or application for Order, *One Shilling and Three Pence*; every Hearing, *Five Shillings*, to be increased in the discretion of the Judge to a sum not exceeding *Ten Shillings*; every Oath administered in Court, *One Shilling*; every certificate under Seal of Court, *One Shilling and Three Pence*; every Sitting in taking an account, or other Sittings, *Five Shillings*.

SCHEDULE D. (See Section XXI.)

Fees to the Clerk.

Receiving and filing Claim, *Four Pence*; every Writ of Summons, or other Writ, *One Shilling*; filing every separate paper, *Three Pence*; preparing Order, *One Shilling and Four Pence* per folio for every folio over three; taking any Affidavit other than oath in open Court, *One Shilling*; every Search, *Six Pence*; recording every final Order or Decree, *One Shilling*; other Orders, *Six Pence*; every Certificate not exceeding three folios, *One Shilling*; every Special Writ, Writ of Execution or other Special Document, *Eight Pence* per folio; taxing costs, *One Shilling*; every attendance on reference, *Five Shillings*; every Verdict taken, *Two Shillings and Six Pence*.

Fees to the Sheriff.

Every Summons or Order served, including Return, *Two Shillings and Sixpence*; every Jury sworn, *Two Shillings and Sixpence*; every Execution or Judgment Order received, *One Shilling and Three Pence*; return thereof, money made or party arrested, *One Shilling and Three Pence*; necessary mileage actually travelled, *Four Pence* per mile; and for other services, a sum to be fixed by Order of the Judge not exceeding the present allowance by Statute for similar services.

SCHEDULE E. (See Section XXI.)

ATTORNEY AND SOLICITOR.

Instructions to sue or defend, *Two Shillings and Six Pence*; Drawing Claim, *Two Shillings and Six Pence*; Fee on every Writ

Writ or Order, *One Shilling and Three Pence*; Common Affidavits, *One Shilling*; Common Notice or Appointment, *One Shilling*; Every necessary Attendance, *Six Pence*; Special Affidavits and other Special Documents, *Eight Pence* per folio: Fee on Common Motions, *One Shilling and Three Pence*; Copy of every paper when necessary, half the amount allowed for the Original; Bill of Costs, *One Shilling*; Postages actually paid.

COUNSEL.

Fee on Special Applications, Arguments, Hearings, &c., *Ten Shillings*, to be increased at the discretion of the Judge to *Twenty-five Shillings*.

REAL PROPERTY ACT, (C. W.) AMENDMENT.

CAP. CXXI.

AN ACT TO AMEND THE LAW RESPECTING REAL PROPERTY IN CANADA WEST, AND TO RENDER THE PROCEEDINGS FOR RECOVERING POSSESSION THEREOF IN CERTAIN CASES, LESS DIFFICULT AND EXPENSIVE.

[Assented to, 23rd May, 1853.]

Preamble.

WHEREAS doubts have been entertained as to the effect of a certain Act of the Parliament of the late Province of U. C., passed in the fourth year of the Reign of His late Majesty King William the Fourth, intituled,

Act of C. W.
4 W. 4 c. 1.

An Act to amend the law respecting Real Property and to render the proceedings for recovering possession thereof in certain cases, less difficult and expensive, so far as the same relates to Mortgages, and it is expedient that such doubts should be removed: Be it therefore declared and enacted, &c., That it shall and may be lawful for

Mortgagee may make entry or bring suit, at any time within twenty years from the last payment.

any person entitled to or claiming under any Mortgage of Land, being Land within the definition contained in the fifty-ninth Section of the Act cited in the Preamble to this Act, to make an Entry or bring an Action at Law or Suit in Equity to recover such Land, at any time within twenty years next after the last payment of any part of the principal money or interest secured by such Mortgage, although more than twenty years have elapsed since the time at which the right to make such Entry, or bring such Action or Suit in Equity, shall have first

121, 1853.

on Affidavits,
One Shil-
ial Affidav-
folio: Fee
; Copy of
ed for the
ly paid.

&c., Ten
Judge to

MENT.

IN CANADA
POSSESSION
SIVE.

y, 1853.]

rtained as
the Parlia-
nth year of
, intituled,
Property
ing posses-
ive, so far
that such
ared and
lawful for
nder any
he defini-
ion of the
o make an
to recover
after the
or interest
nty years
ake such
have first
accrued :

16 Vict. SMALL CAUSES, SUMMARY DEC. (C. E.) Cap. 14, 1852.

accrued : Provided always, that this Act shall not be held to affect any title, possession, interest or case which may be in litigation at the time of the passing of this Act; any thing in the said Act to the contrary notwithstanding.

Proviso : as to
existing suits,&c.

SMALL CAUSES, SUMMARY DECISIONS, (C.E.)

CAP. XIV.

AN ACT TO AMEND THE ACT PROVIDING FOR THE SUMMARY DECISION OF SMALL CAUSES IN CANADA EAST.

[Assented to, 10th November, 1852.]

WHEREAS experience hath shewn the necessity of introducing certain alterations in the provisions of an Act passed in the seventh year of Her Majesty's Reign, intituled, *An Act to provide for the Summary Trial of Small Causes in Lower Canada*; Be it therefore enacted, &c., That on a petition signed by an absolute majority of the inhabitants of a Parish, Seigniori or Township in Lower Canada, in which there now is, or in which there may then be a Court for the trial of Small Causes, and who are entitled to vote at the election of Municipal Councillors, which petition shall have annexed to it a Certificate of at least three persons residing in such Parish, Seigniori or Township, (and who shall be respectively either Justices of the Peace or Officers of Militia holding rank higher than an Ensign,) certifying that the persons signing the petition do really form absolute majority of the Municipal Electors residing in such Parish, Seigniori or Township, the said petition praying that the Commissioners' Court in the said Parish, Seigniori or Township may be suspended or discontinued, it shall be lawful for the Governor in Council to suspend or discontinue it; Proviso. Provided always, that after the passing of this present Act no Commissioners' Court shall be established or re-established, unless on a petition signed by an absolute majority of the Municipal Electors of a Parish, Seigniori or Township in Lower Canada, and certified as aforesaid.

Preamble.

Act 7. V. c. 19.

Court may be discontinued on petition of an absolute majority of the Municipal Electors of the place.

SMALL CAUSES ACT AMENDMENT, (C. E.)

CAP. CCII.

AN ACT TO AMEND THE LAWS RELATIVE TO COMMISSIONERS' COURTS FOR THE TRIAL OF SMALL CAUSES IN CANADA EAST.

[Assented to, 14th June, 1853.]

Preamble.

WHEREAS for the prevention of fraud, it is expedient to make provision for the due attestation of the signatures to the Petitions for the discontinuance or re-establishment of Commissioners' Courts, under the Act passed in the present Session and intituled, *An Act to amend the Act providing for the summary decision of Small Causes in Lower Canada*: Be it therefore enacted, &c., That before any Petition under the Act cited in the Preamble of this Act, either for the discontinuance or for the re-establishment of a Commissioners' Court in any Parish, Seignior or Township, shall be certified by any Justice of the Peace or Officer of Militia, as being signed by an absolute majority of the Municipal Electors residing in such Parish, Seignior or Township, each signature shall be attested on oath, before some Justice of the Peace residing in the County in which such Parish, Seignior or Township shall lie, by some Municipal Elector of such Parish, Seignior or Township known to such Justice of the Peace, in the following form, or words to the like effect:

Form of oath.

"I, M. N. swear that A. B., C. D. and E. F. (*"inserting the names of the party or parties whose signature or signatures is to be attested,"*) signed the above written Petition in my presence; that I am personally acquainted with him (*or them*) and know that he is (*or each of them is*) a Municipal Elector of the Parish (Seignior or Township) of (*if any of the signers make their marks instead of signing their names, add,*) and that the said Petition was read over distinctly and explained to those of the said signers who have made their marks thereto instead of signing their names."

(Signature,) M. N.

Attestation.

"Sworn before me, one of Her Majesty's Justices of the Peace for the County of _____ by M. N., (*trade, profession or quality*) who is personally known to me as a Municipal Elector of the Parish (Seignior or Township) of _____ and as a person worthy of credit, at this _____ day of _____ one thousand eight hundred and fifty- _____."

O. K.
J. P.

And

(C. E.)

COURTS FOR

, 1853.]

fraud, it is
or the due
discontinu-
under the Act
ed, *An Act*
all Causes
l, &c., That
the Pream-
inuanice or
ers' Court
any Just-
an absolute
rish, Seig-
oath, be-
in which
Municipal
n to such
o the like

and E. F.
nature or
Petition in
h him (or
Municipal
(if
ning their
distinctly
made their

) M. N.
ty's Justi-
N., (*trade*,
as a Mu-
p) of

O. K.
J. P.
And

14 & 15 Vict. MUNICIPAL CORPORATE BODIES, (C. W.) Cap. 57, 1851.

And if any signature be not so attested, it shall not be counted in ascertaining the number of persons signing such Petition; Provided always, that the signatures of different signers of any Petition may be attested by different witnesses, and any number thereof may be attested by one witness, and that the mark of any person attested as aforesaid shall be counted as a signature.

Unattested signatures not to be counted.
Provido.

MUNICIPAL CORPORATE BODIES AC-
QUIRING PUBLIC WORKS, (C. W.)

C A P. L V I I .

AN ACT TO REMOVE DOUBT AS TO MUNICIPAL CORPORATE BODIES AC-
QUIRING PUBLIC WORKS WITHOUT THE LIMITS OF SUCH MUNICIPALI-
TIES, IN CANADA WEST.

[Assented to, 30th August, 1851.]

WHEREAS in and by an Act passed in the twelfth year of Her Majesty's Reign, intitled, *An Act for the better management of the Public Debt, Accounts, Revenue, and Property*, it is provided, That it shall be lawful for the Governor in Council to enter into arrangements with any of the Municipal or District Councils, or other local Corporations or authorities, for the transfer of them to any of the Public Roads, Harbours, Bridges, or Public Buildings, which it may be found more convenient to place under the management of such District or Municipal Council, or other local or authority; And whereas it is doubtful whether, under the provisions of the said Act, any District or Municipal Council, or local Corporation or authority, could acquire any such Public Roads, Harbours, Bridges, or Public Buildings situate beyond and without the limits of such District or Municipal Council, or other local Corporation or authority; And whereas it is expedient to remove such doubt: Be it therefore enacted, &c., That it shall and may be lawful to and for any Municipal Corporation, or other local corporate body or authority, to contract for, purchase, acquire and hold any such Public Roads, Harbours, Bridges or Public Buildings, which, in and by the said recited Act, could lawfully be disposed of, whether the same be situate within the limits of such Municipal Corporation, or other corporate body or authority, or otherwise.

Preamble.
12 Vic., c. 5, cited.

Corporations em-
powered to ac-
quire public
roads, &c., beyond
limits.

otherwise ; anything in the said recited Act to the contrary notwithstanding.

Penalty for damages to the road.

II. And be it enacted, That if any person or persons shall cut, break down, or destroy in any other way any of the Gates or Toll-houses erected on any road whereon Tolls may lawfully be taken, every such person so offending, and being lawfully convicted, shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment ; and if any person or persons shall place or remove any earth, stone, or timber on any such road, to the damage of the same, or shall forcibly pass or attempt to pass any of the Gates without having first paid the legal Toll at such Gate, such person or persons shall pay all damage by him or them committed, and shall forfeit and pay a fine of not more than Five Pounds, nor less than Ten Shillings, to be recovered before any Justice of the Peace of the County or United Counties, or Mayor or Chief Officer of any City, Town, or Incorporated Village, in which such Toll Gate is situate.

Fines, &c., how levied.

III. And be it enacted, That the fines and forfeitures authorized to be imposed by this Act, shall be levied and collected by distress and sale of the offender's goods and chattels, under the authority of any Warrant or Warrants to be issued for that purpose by such Justice as aforesaid, or any other Justice of such County or United Counties, or Mayor or Chief Magistrate of any City, Town, or Incorporated Village in such County or United Counties, who is hereby empowered to grant the same.

Persons evading payment of tolls fined.

IV. And be it enacted, That if any person or persons shall, after proceeding on such road with any of the carriages or animals liable to pay Toll, turn out of the same road into any other road, and shall enter the said road beyond any of the said Toll-gates, without paying Toll, whereby such payment shall be evaded, such person or persons shall, for every such offence, forfeit and pay the sum of Five Shillings, to be recovered before any Justice of the Peace for the County or United Counties in which such road is situate.

Fines, &c., to whom paid.

V. And be it enacted, That all fines and forfeitures collected under authority of this Act, shall be paid to the Treasurer of the local authorities or Companies owning the respective roads in respect of which such fines and forfeitures shall be imposed, for the use of such local authorities and Companies respectively.

Corporations bound to repair road.

VI. And be it enacted, That every such local corporate body or authority shall keep every such road in good and sufficient repair, and upon default thereof, shall and may be indicted at any Court of General Quarter Sessions

of the
Coun
which
ed, th
direct
sary
tion s
as to
in cas
Count
the ro
the n
such
thereo
author
pairs,

VII
person
gates
rate th
ing th
openin
lings,
posed

VIII
apply

MU

AN ACT

W
may b
Village
in effec

57, 1851.

rary not-

person dr
y in any
any road
erson so
ed guilty
sonment;
ny earth,
same, or
s without
n or per-
and shall
nor less
ce of the
ef Officer
such Toll

and for-
Act, shall
r's goods
rrants to
d, or any
Mayor or
illage in
wered to

person or
oad with
rn out of
aid road
whereby
shall, for
llings, to
ounty or

and for-
Act, shall
companies
fines and
authorities

uch local
very such
eof, shall
Sessions
of

16 Vict. CON. MUNICIPAL LOAN FUND ACT, (C. W.) Cap. 22, 1852.

of the Peace or other Court of Superior Jurisdiction of any County or Union of Counties within or along the boundary of which such road shall be out of repair, and upon being convicted, the Court before which such conviction shall be had, shall direct such local corporate body or authority to make the necessary repairs, for the want of which such prosecution shall have been commenced, within such time as to the Court shall seem reasonable; and that in case such repairs shall not be completed within such time, the County Council of the locality within or along the limits of which the road may be situate in part or wholly, shall and may cause the necessary repairs to be made, and the amount expended on such repairs, together with twenty-five per cent. of increase thereon, shall and may be recovered from the corporate body or authority owning the road, and so neglecting to make such repairs, by action of debt in any Court of competent jurisdiction.

Penalty incurred for neglecting the same.

VII. And be it enacted, That any person or persons appointed to collect Tolls at any Toll-gates in Upper Canada, who shall demand Tolls at a higher rate than is authorized by law, from any person or persons passing through the same, or wilfully make any unnecessary delay in opening the same, shall incur a penalty of One Pound Five Shillings, to be levied in the same manner as other penalties imposed by this Act.

Exactng unfair tolls punishable by fine.

VIII. And be it enacted, That this Act shall apply only to Upper Canada.

Act limited.

MUNICIPAL LOAN FUND ESTABLISHED.
(C. W.)

CAP. XXII.

AN ACT TO ESTABLISH A CONSOLIDATED MUNICIPAL LOAN FUND FOR CANADA WEST.

[Assented to, 10th November, 1852.]

WHEREAS it would greatly facilitate the borrowing, upon advantageous terms, of such sums as may be required by any County, City, Town, Township or Village Municipality in Upper Canada, for effecting or aiding in effecting important Works calculated to benefit such County, City,

Preamble.

City, Town, Township or Village, that such sums should be raised by Debentures issued upon the credit of a Consolidated Municipal Loan Fund under the management of the Provincial Government, instead of being raised upon the separate credit of each individual Municipality: Be it therefore enacted, &c.,

Consolidated
Municipal
Loan Fund
established.

That there shall be a Consolidated Municipal Loan Fund of Upper Canada, to consist of all moneys which under this Act or any other Act shall be directed to form part of the said Fund; and such Fund shall be managed by the Receiver General, under the direction of the Governor of this Province in Council, and the Books and Accounts thereof shall be kept in his Office.

Municipalities
may borrow
money on the
credit of such
Fund for certain
purposes.

II. And be it enacted, That it shall be lawful for the Corporation of any County, City, Incorporated Town, Township or Village, by By-law to authorize any sum of money to be raised on the credit of the said Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found requisite, to defray the expense of building or improving any Gaol or Court House for the use of such Municipality, or for acquiring, making, constructing or completing, or assisting in the making, construction or completion of any Rail-road, Canal or Harbour, or for the improvement of any navigable river, within or without the Municipality, but the acquisition, making or construction whereof will benefit the inhabitants of such County, City, Town, Township or Village, and by such By-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such By-law; and that it shall be lawful for the Corporation of any City or County by By-law to authorize any sum of money to be raised on the credit of the Consolidated Municipal Loan Fund, and to appropriate such sum or so much thereof as may be found necessary to defray the cost of making or improving any Bridge, Macadamized, Gravel or Planked Road, within or without the Municipality, but the making or improving whereof will benefit the inhabitants of such County or City, and by such By-law to declare the purposes to which the sum so to be raised shall be applied, and to make such other provisions as may be requisite for ensuring the due application of such money, and the attainment of the objects contemplated by such By-law.

How a Municipal-
ity may assist
in any under-
taking.

I. By any such By-law it may be provided that the assistance of the Municipality shall be granted towards making, constructing, or completing any such Rail-road, Bridge, Macadamized, Gravel or Planked Road Canal or Harbour, or towards the improvement of any naviga-

ble river, either by subscribing on behalf of the Municipality for Stock in any Company incorporated for making, constructing or completing the same, or by loaning money to such Company, or any Board of Commissioners incorporated for any of the above purposes, in which case the security to be taken from the Company or Board of Commissioners, and the other terms of the loan shall be mentioned in the By-law.

2. The By-law shall recite that the loan is to be raised under the provisions of this Act, and shall express the term for which the loan is required, which shall not in any case exceed thirty years, nor be less than five years.

What provisions
the By-law must
contain.

3. If the By-law be passed by a County Council the principal and interest of the loan shall be payable by all the Townships, Towns and Villages in the County, and the County Treasurer shall in each year apportion the amount to be paid by each, according to the amount of property returned upon the Assessment Rolls of such Townships, Towns and Villages respectively, for the financial year next preceding that for which the apportionment is to be made.

Further provisions
required in
By-law.

4. Such By-law, or every material provision thereof, shall be published for the information of the Rate-payers, for at least one month before the final passing thereof, in some newspaper published weekly or oftener, within the territorial jurisdiction of the Municipality, or if there be no such newspaper published within such jurisdiction, then in some newspaper published in the place nearest to such jurisdiction, and also by posting the same up in at least four public places in the Municipality, (and if it be a By-law of a County Council then in each Municipality in such County) with a notice, signed by the Clerk of the Municipality in the Council of which the By-law originated, signifying, that it is a true copy of a By-law which will be taken into consideration by the Council of the Municipality after the expiration of one month from the first publication thereof in such newspaper, (the date of which first publication shall be mentioned in such notice,) and that on some day and at some hour and place, (or if the Meeting be for a County By-law, places,) named in the notice, and which shall have been previously fixed by the said Council, such day not being less than three weeks, nor more than four weeks after such first publication, a General Meeting of the qualified Municipal Electors of the Municipality, (or of the several Municipalities within the County,) will be held for the purpose of considering such By-law, and approving or disapproving the same.

To be published
before passing.

General meetings
of electors.

Proceedings at
such meeting.

5. On the day and at the hour and place (or places) appointed by such notice as aforesaid, the qualified Municipal Electors, or such of them as choose to attend the Meeting, shall take the said By-law into consideration, and shall approve or disapprove the same; and at such Meeting the Mayor or Reeve of the Municipality in which it is held shall preside, or in his absence some other Member of the Council of such Municipality to be chosen by the Meeting, and the Clerk of such Municipality shall act as Secretary; and it shall be the duty of the said Clerk to have with him the Assessment Rolls of the Municipality then in force, or certified copies thereof: The only question to be determined at such Meeting, shall be whether the majority of the Municipal Electors present thereat, do or do not approve of the said By-law; and when the question has been put, the person presiding shall declare whether in his opinion the majority is for the approval or disapproval of the By-law, and his decision if not forthwith appealed from, shall be final, and it shall forthwith be communicated to the Council of the Municipality which originated the By-law, by a certificate under the hand of the Secretary of the Meeting.

A poll may be
demanded.

6. Any six duly qualified Municipal Electors present at any such Meeting may appeal from the decision of the person presiding, and demand a Poll, and such Poll shall be granted by the person presiding at the Meeting, and shall be immediately taken by him, the Clerk of the Municipality acting as Poll Clerk: each Elector shall then present himself in turn to the person presiding, and shall give his vote "yea" or "nay," the word "yea" meaning that he approves the proposed By-law, and the word "nay" that he disapproves the same:—but no person's vote shall be received unless he appears by the Assessment Rolls to be a duly qualified Municipal Elector.

Adjournment
of Poll.

7. The person presiding may, if necessary, adjourn the Poll at sunset on the day of meeting, until ten o'clock in the forenoon of the following day, not being a Sunday or statutory holiday, when the Poll shall be continued as on the first day, but shall be closed at sunset of such second day:—it shall be closed at any time on the first or second day if one half hour shall elapse without a vote being offered.

Close of the Poll.

8. At the close of the Poll the person presiding shall count the "yeas" and the "nays," and ascertain and certify for the information of the Council which originated the By-Law, whether the majority is for the approval or disapproval of the said By-Law; and such certificate shall be countersigned by the Clerk of the Municipality acting as Secretary of the Meeting and kept by him, with the Poll List, among the records of his office, and a duplicate thereof transmitted to

the County Clerk if the By-Law originated with a County Council.

9. If the By-Law to be considered be a By-Law of a County Council, the meeting to consider the same, or the poll of the electors, shall not be held for the whole County at one place, but such meeting or poll shall be held in each of the several Municipalities of such County respectively; and the question whether the By-Law shall be approved or disapproved, either by the majority of the total number of electors voting "yea" or "nay," in the whole County, or by the majority of votes of Municipalities approving or disapproving of the same, giving to each Municipality one or two votes, according as it is by Law authorized to return a Reeve or a Reeve and Deputy Reeve to the County Council of such County, in which case each Municipality shall be held to have voted for the approval of the By-Law, if the majority of Electors voting at the Meeting held therein shall have voted "yea," and to have voted for the disapproval thereof if the majority of such Electors shall have voted "nay;" and each such County Council shall make a By-Law to provide which of the two modes of decision shall be adopted, and shall also thereby declare the manner in which the decision of each Municipality, or of the electors thereof, shall be made known to the County Clerk.

By-law of a County Council.

10. If such By-Law be disapproved by the majority of the Electors (or of the Municipalities) as aforesaid, the Council shall not proceed to pass the same, but if it be approved by such majority, and afterwards passed by the Council, then such By-Law, and all the provisions thereof shall be subject to the approval of the Governor in Council, and shall have no force until such approval shall have been given; but shall not be subject to the special provisions made by the Upper Canada Municipal Corporations Act of one thousand eight hundred and forty-nine, or by any Act amending the same, concerning By-Laws creating debts, or to any provisions or formalities, except those prescribed by the said Acts with regard to By-Laws generally, and those proscribed by this Act; and every such By-Law, when submitted to the Governor in Council for his approval, shall contain a recital that it has been approved by a majority of the duly qualified Municipal Electors (or of the Municipalities) of (or in) the Municipality, at a meeting (or meetings) called and held in conformity to the requirements of this Act, and such recital shall for all the purposes of this Act be conclusive proof of the facts therein stated, nor shall any such By-Law, or anything done under it, be invalidated by any error of fact or incorrectness in such recital; but this provision shall not affect the responsibility of those

If disapproved:

If approved:

Governor General to approve.

those who may have wilfully concurred in any mis-statement of fact in such recital.

Information to be furnished to Governor.

11. Before such By-Law shall be approved by the Governor in Council, proof shall be made to his satisfaction, that the By-Law was published and notice given as hereinbefore required, and he shall be furnished with a statement certified under oath by the Treasurer of the Municipality, shewing the amount of taxable property therein according to the then last Assessment Roll or Rolls, and a true account of all the debts and liabilities of the Municipality and of its expenditure for every purpose, for the then last year.

Governor in Council may demand further information from the Municipality.

III. And be it enacted, That it shall be lawful for the Governor in Council to require from the Municipality by the Council whereof any such By-Law shall have been passed, all such documents and information as he may think necessary for ascertaining the expediency or in expediency of such By-Law, or any of the provisions thereof, and the same shall be furnished accordingly by the proper Officers of such Municipality, and no such By-Law shall be repealed, amended or altered, otherwise than by another By-Law approved in like manner by the Governor in Council, and to which all the provisions of this Act shall apply, as to the original By-Law.

Receiver General to issue Debentures, &c.

1. So soon as the By-Law shall have been approved as aforesaid, it shall be lawful for the Receiver General to raise by loan, by Debentures issued by him upon the credit of the said Consolidated Municipal Loan Fund, a sum of money not exceeding that authorized by such By-Law, and to pay over such sum to the Treasurer of the Municipality, or to deliver to him, or to his order, Debentures secured upon the said Fund to a like amount, or to pay part of such sum in money to the Treasurer, and to deliver to him Debentures for part; and in any case, he shall enter the amount for which Debentures are issued and delivered, to the Debit of the Municipality as so much due by it to the said Fund:

Where payable and form of.

2. The principal and interest of the Debentures so issued may be made payable at any place within or without this Province in currency or in sterling money or in the currency of the place where they shall be made payable; and such Debentures shall be in such form as the Governor in Council shall direct, subject to the following provisions:

How worded.

3. They shall express upon their face that the Provincial Government undertakes to pay the principal sum mentioned in them and the interest thereon, out of the monies forming part of the said Consolidated Municipal Loan Fund, and out of no other monies or funds whatsoever:

statement of

proved by
made to his
furnished and
furnished
er of the
ty therein
and a true
pality and
year.

be lawful
from the
y such By-
documents
aining the
f the pro-
dingly by
By-Law
y another
Council,
as to the

been ap-
or the Re-
Debentures
d Muni-
authorized
asurer of
Debentures
ay part of
o him De-
ne amount
Debit of
:

Debentures
place with-
money or
payable ;
governor in
s :

ce that the
sum men-
nies form-
d, and out

4.

4. The principal shall be made payable at the time provided by the By-law, and the Debentures shall contain no provisions inconsistent with the By-law by which the loan is authorized, and they shall contain all such provisions as may be necessary to carry out the intentions of such By-law :

To conform with
By-laws.

5. The rate of interest upon them shall in no case exceed six per centum per annum, and such interest shall be made payable half yearly on such days in each year as shall be therein appointed for the purpose; but if any Debenture be issued within three months next before any such day, then the first interest thereon may be made payable on that one of the half yearly days which shall come next after the expiration of three months from the date of its issue :

Rate of interest,
and terms at
which payable.

6. They shall be for even sums of money, and no Debenture shall be for a less sum than twenty-five pounds, or the equivalent thereof.

To be for even
sums.

7. They shall contain such conditions as the Governor shall from time to time, by order in Council, direct to be inserted therein, as to the right of the Receiver General to call such Debentures or any of them in for payment before the time therein absolutely appointed for the payment of the principal,—the manner in which they shall be so called in,—and in which it shall be determined which of such Debentures shall be so called in at any time, if they be not all called in at the same time ; and no interest shall be payable upon any Debenture which shall have been called in according to such conditions as aforesaid, for any period after the day on which it shall have been required to be presented for payment, which day shall always be one of those on which interest is payable on such Debentures ; and this forfeiture of interest in the case last mentioned shall be expressed on the face of the Debenture.

To contain pro-
visions as to call-
ing them in.

8. It shall not be necessary that any Debenture should show upon what By-law or with reference to what Municipality it was issued, but each Debenture shall be distinguished by a number by which it shall be known and referred to.

Debentures to be
numbered.

9. The Governor in Council may direct that any such Debentures may on the application of the holders thereof be exchanged for another or others for the same amount of principal, payable absolutely at the same or any later date, and bearing the same or any less rate of interest.

Exchanging
Debentures.

10. The said Debentures shall be held to be Debentures issued by the Government of this Province through the Receiver General thereof, within the meaning

Debentures to be
as Government
Debentures.

of the Act to establish freedom of Banking, or any Act amending the same, and of the Act to exempt the several chartered Banks from the tax on their circulation on certain conditions, and shall be available accordingly for all the purposes of the said Acts or either of them, and any monies which are by law directed to be invested by or under the directions of the Governor in Council, may be invested in such Debentures.

Advances to the
said Fund from
the Upper Canada
Building Fund.

IV. And be it enacted, That it shall be lawful for the Governor in Council from time to time, and when it shall be necessary to enable the said Consolidated Municipal Loan Fund, to meet the charges upon it, to direct the Receiver General to advance to the said Fund, out of any unappropriated monies forming part of the Fund arising out of monies levied or to be levied under the authority of the Act passed in the session held in the 13th and 14th years of Her Majesty's Reign, and intitled, *An Act to provide funds for defraying the cost of the erection of the Lunatic Asylum and other Public Buildings in Upper Canada*, and known as the Upper Canada Building Fund, such sum as may be deemed expedient, and in like manner to direct the repayment of such sum from the said Consolidated Municipal Loan Fund to the said Upper Canada Building Fund.

Account to be
kept by Receiver
General with the
Municipality.

V. And be it enacted, That the Receiver General and the Treasurer of the Municipality, shall respectively keep a correct account between the Municipality and the said Consolidated Municipal Loan Fund, debiting the Municipality with the principal of each Debenture issued for its purposes, and with the interest thereon as the same becomes due, and any other expenses or liabilities incurred by reason of such Debentures, and crediting it by the sums paid over to the Receiver General to meet such principal and interest, by the proportionate share of the Municipality in the proceeds of any monies forming part of the Sinking Fund hereafter mentioned and invested by the Receiver General, and by any other sums received by him on account of the Municipality; and it shall be the duty of the Receiver General, three months before each day in each year in which interest or principal will be payable on the Debentures issued for the purposes of any Municipality, to notify to the Treasurer thereof, by letter sent by Post, the sum which he will, under the provisions of this Act, be required to pay over to the Receiver General by reason of such Debentures, which sum it shall be the duty of such Treasurer to pay over accordingly; but the failure on the part of the Receiver General to give such notice shall not affect the obligation of the Treasurer or of the Municipality, to pay over such sum at the time when it ought to be so paid over.

1. The sum to be so paid at any time by the Treasurer for his Municipality shall be at the rate of eight per centum per annum on the amount of the Debentures issued for the Loan in respect of which the payment is made, for the period of which the payment shall relate, and such further sum as may be payable on the day in question for or on account of the principal of such Debentures, less such sum applicable to the payment of such principal as may then stand at the credit of the Municipality in account with the said Fund: and such payments shall continue to be made until all such Debentures shall be paid off in principal and interest, or until there be a sufficient sum at the credit of the Municipality to pay off the same.

Payments to be at the rate of 8 per cent. per annum on the Loan, &c.

2. If the Treasurer shall have any of such Debentures in his hands as the property of his Municipality, then the proper Coupons for interest on such Debentures may be taken from him by the Receiver General as money.

Coupons to be taken as money.

3. The difference between the said rate of eight per cent and the actual interest payable on the Debentures, and all other monies which shall come into the hands of the Receiver General as part of the said Fund, and shall not be required to pay the interest of Debentures chargeable upon it, shall form a Sinking Fund, and shall be from time to time invested by the Receiver General under the direction of the Governor in Council, and the amount thereof shall, with the proceeds of such investment (which shall also form part of the said Sinking Fund) be applied under such direction as aforesaid, to the redemption of Debentures issued on the credit of the said Municipal Loan Fund; and each Municipality shall be credited with a share of the said Sinking Fund equal to the amount of the sums it shall have paid into the same, and with a share of the proceeds of any part of the said Fund invested by the Receiver General proportionate to the sums it shall have paid into the same and the time during which such sums shall have remained in the said Sinking Fund, and such share shall be accordingly applied to the redemption of the Debentures issued for the purposes of such Municipality: and each Municipality shall be debited with all sums paid out of the said Sinking Fund on its account.

Sinking Fund constituted: of what it shall consist.

Share of each Municipality in Sinking Fund.

4. It shall be lawful for the Receiver General to pay the interest on any Debenture out of the said Sinking Fund, if in any case the other monies at his disposal for the purpose shall be insufficient, repaying the amount so paid with interest, to the said Sinking Fund, out of the monies which would otherwise be applicable to the payment of such interest so soon as the same shall come into his hands.

Certain payments may be made out of it.

Securities forming part of it may be sold.

5. It shall be lawful for the Receiver General from time to time to sell, pledge or otherwise dispose of any securities in which any part of the Sinking Fund may have been invested in case it shall be necessary so to do in order to enable him to pay any sum which is hereby made payable out of the said Sinking Fund.

Duty of the Treasurer and Officers of the Municipality after the passing of any such By-law in levying money to meet payments to be made in consequence thereof.

VI. And be it enacted, That whenever a By-law authorizing the raising of money by loan, under this Act, shall have been passed by the Council of any Municipality, and approved by the Governor in Council, the Treasurer of such Municipality shall *ipso facto*, and without requiring any other authority or direction whatever, have full power, and it shall be his duty, before the making out of the ordinary Collectors' Rolls in each year, if the By-law shall then be in force, and if not, then at least three months before the earliest day on which interest can be payable on any Debenture issued under such By-law, to ascertain the highest sum which can be required during the year, to pay the interest (and the principal if any be payable,) on or of Debentures issued or to be issued under such By-law, and to add five per centum thereunto for losses and expenses, and to certify the amount in a notice to the Clerk of the Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the portion payable by the same; and it shall be the duty of such Clerk to assess the amount so certified equally upon all the taxable property in his Municipality, and to set down on the ordinary Collectors' Roll for the year, if it shall not have been previously delivered to the Collectors, the amount with which each party or lot is chargeable, under the head of "Loan Rate for (naming the purpose)" or "County Loan Rate for (naming the purpose)," as the case may be; and if such amount shall be so certified to any such Clerk after the time in any year when the Collectors' Rolls shall have been delivered to the Collectors, then such Clerk shall forthwith make out a special Collectors' Roll for the purpose in the form prescribed for ordinary Collectors' Rolls, so far as such form may be applicable, and shall deliver the same to the Collector: Provided

Proviso. always, that if there be in the hands of the Treasurer at the time of his giving such notice as aforesaid to the Clerk of the Municipality, any monies applicable to the payment of the principal or interest of the Debentures to which such notice refers, then the Treasurer may deduct such sum from that to which the notice refers before adding the five per cent thereto; and provided also,

Proviso. If the money borrowed be so invested as to produce returns.

that if the purpose for which the loan is raised be such as to produce profit or to yield returns in money to the Municipality, or if the money be loaned by it so as to produce interest, or if the capital

capital
ful for
pality
signed
there
the ye
terest
case n
to bel
source
will a
then d
which
said, c
greater
shall a
pality

1. I
last a
enable
shall n
payme
ing ye
the ne
Treas
then a
cases

2. A
ity as
any w
author
Munic
of suc
by hin
over f
placed
dated
otherw
loan.

3. I
under
the T
Gener
paid
money
it sha

capital be reimbursable to the Municipality, then it shall be lawful for the Treasurer and the Mayor, or Head of such Municipality to enter upon the Books of the Corporation, a Certificate signed by them in the form of the Schedule A. setting forth that there ought to be paid to the Municipality during the course of the year, such dividends or profits (*describing them*) or such interest or sums of money (*mentioning the amount*) or both (*as the case may be*), and that the said Treasurer and Mayor have reason to believe and do believe that the sums which will, from the said sources, come into the hands of the Treasurer during the year, will amount to the sum of (*naming it*) and the Treasurer may then deduct the sum mentioned in such Certificate from that to which the notice refers, before adding the five per cent as aforesaid, or if the sum mentioned in the Certificate be as great or greater than that to which the notice would refer, then no notice shall at that time be given to the Clerk or Clerks of the Municipality or Municipalities concerned.

1. If the nett sum raised by any such rate as last aforesaid be greater than that required to enable the Treasurer to pay the Receiver General, the surplus shall remain in the hands of the Treasurer and be applicable to payments to be made to the Receiver General for the next ensuing year, on account of the same loan; and if the nett sum raised be insufficient to enable the Treasurer to pay the required sum to the Receiver General, then a new assessment shall be made as hereinafter provided in cases of deficiency.

If any surplus be raised.

If there be a deficiency.

2. All sums of money coming to the Municipality as the said profits, dividends or returns from any work from which the loan shall have been authorized, or as interest or principal of any sum lent by the Municipality out of such loan, or otherwise howsoever by reason of such loan, shall be paid into the hands of the Treasurer and by him carefully kept apart from all other monies, and paid over from time to time to the Receiver General, to be by him placed to the credit of the Municipality with the said Consolidated Municipal Loan Fund, except in so far as it shall be otherwise especially provided in the By-law authorizing such loan.

All profits from works, &c., to go to the said Fund.

3. If it shall happen that the sum which ought under this Act to be paid over at any time by the Treasurer of any Municipality to the Receiver General, or any part of such sum, shall not be so paid over, and the Treasurer shall not have money in his hands applicable to the same, or if it shall happen that the Treasurer shall foresee that he will not

Proceeding for levying money in case the Treasurer shall not have funds to make his payments to the Receiver General.

have the means of paying over such sum or part thereof to the Receiver General, at the time when it ought to be so paid over, then in either case it shall be the duty of such Treasurer forthwith to add five per centum to the sum wanting for such purpose, and to certify the same to the Clerk of his Municipality, or if such Municipality be a County, then to certify to the Clerk of each Township or Incorporated Town or Village therein, the amount payable by the same, and it shall be the duty of each Clerk receiving such notice forthwith to make out a Special Collectors' Roll for the amount so certified to him, and to deliver the same to the Collectors.

Interest to be charged to Municipality in default.

4. If any sum payable as aforesaid at any time by any Treasurer to the Receiver General, be not so paid at such time, interest shall by the Receiver General be charged on such sum for the time it shall remain unpaid, against the Municipality in account with the said Consolidated Municipal Loan Fund, and deducted from the share of such Municipality in the Sinking Fund,

Moneys to be collected in the usual manner.

5. The sums entered in any Collectors' Roll by any Clerk of a Municipality shall be collected and levied, and payment thereof secured and enforced in like manner and under the same provisions as other Municipal taxes, but the nett proceeds thereof shall be applied by the Treasurer solely to the purpose for which they are directed to be raised.

Warrant to the Sheriff to levy upon Municipality in default more than three months.

VII. And be it enacted, That if any sum of money which ought under this Act to be paid by the Treasurer of any Municipality to the Receiver General, shall remain unpaid during three months or upwards after it ought to have been so paid, then upon the certificate of the Receiver General that such sum is so due and unpaid, and since what day it has been so, it shall be lawful for the Governor to issue his Warrant to the Sheriff of the County reciting the facts, and commanding him forthwith to levy such sum by rate, with interest from the said day and all costs, and to pay over the said sum and costs to the Receiver General, and the said Sheriff shall obey the said Warrant and levy the sums therein mentioned in like manner and within the same delay as he would levy the same if it had been recovered against the Municipality under a judgment of the proper Court of law, and a Writ of Execution had issued thereupon directed to him and commanding him to levy the same by rate, and shall pay over the nett proceeds to the Receiver General; and the costs allowed to the said Sheriff for executing the said Warrant shall be the same as those to which he would be entitled for executing a Writ of Execution for a like sum.

V.
palit
this
ity
cons
debts

IX.
the
any
or to
purp
maki
under
whet
pany
by an
befor
Loan
Coun
shall
By-la

X.
sure
the w
the o
his du
apply

CER

Mu
We
raised
on the
has b
the st
the co
shares
presen
that t
for su

of to the
paid over,
forthwith
urpose, and
or if such
rk of each
he amount
Clerk re-
Collectors'
the same

t any time
ral, be not
Receiver
all remain
said Con-
e share of

rs' Roll by
ected and
l enforced
or Muni-
ed by the
directed to

y sum of
e paid by
Receiver
ee months
en so paid,
such sum
so, it shall
he Sheriff
forthwith
day and
Receiver
arrant and
within the
recovered
per Court
n directed
and shall
; and the
Warrant
d for exe-

VIII.

VIII. And be it enacted, That after any Municipality shall have borrowed any money under this Act, it shall not be lawful for such Municipality to contract any further debt without the consent and approval of the Governor in Council, until all debts contracted by it under this Act shall be wholly paid off.

Further debt not to be contracted without sanction of Governor in Council.

IX. And be it enacted, That this Act and all the provisions thereof shall extend and apply to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act shall come into force, for the purpose of aiding in the construction of any Rail-way for the making of which any Company is now incorporated, or shall be under any Act passed or to be passed during the present Session whether such assistance be given by taking Stock in such Company or by loaning money to it, and also to any Loan authorized by any By-law of any Municipality, passed or to be passed before this Act comes into force, authorizing the raising of any Loan for the purpose of erecting, repairing or improving any County building or buildings: Provided always that such Loan shall not have been negotiated by the Municipality under such By-law.

Operation of Act.

X. And be it enacted, That the word "Treasurer," in this Act, shall include the Chamberlain of any City; the word "Mayor" shall include the Warden of any County, and the official title of any Officer shall include any person by whom his duties may be legally performed; and that this Act shall apply only to Municipalities in Upper Canada.

Interpretation.

SCHEDULE A.

REFERRED TO IN SECTION VI, ON PAGE 589.

CERTIFICATE OF TREASURER AND MAYOR, OR HEAD OF A MUNICIPALITY.

Municipality of the *Township of*

We certify to all whom it may concern, That out of the Loan raised under the By-law, No. , intituled, "*(Title of By-law.)*" on the credit of the CONSOLIDATED MUNICIPAL LOAN FUND, there has been invested the sum of in shares of the stock of the *Bytown and Prescott Railroad Company (or as the case may be)*; that this Municipality now holds the said shares; that there ought to be paid dividends thereon during the present year, and that we have reason to believe and do believe that there will be paid into the hands of the Treasurer, as and for such dividends, before the thirty-first day of December now next,

next, the sum of _____ which sum, we think, ought therefore, under the provisions of the Act passed, &c., (*title and date of this Act*.) to be deducted from the sum which ought otherwise now to be raised on the taxable property in this Municipality in order to enable the Treasurer to meet the payments which he is to make to the Receiver General during the present year, on account of the said Loan.

Witness our hands this _____ day of _____ 18 .

Signatures,

A. B., Treasurer.

C. D., Mayor.

CONSOLIDATED MUNICIPAL LOAN FUND AMENDMENT, (C. W.)

CAP. CXXIII.

AN ACT TO EXPLAIN AND AMEND THE ACT INTITULED, AN ACT TO ESTABLISH
A CONSOLIDATED MUNICIPAL LOAN FUND IN CANADA WEST.

[Assented to, 23rd May, 1853.]

Preamble.

16 V. c. 22.

WHEREAS it was intended that the ninth Section of the Consolidated Municipal Loan Fund Act should apply to By-laws passed or in course of being passed before said Act came into force for the purpose of aiding in the construction of any Rail-way, or for the improvement of any navigable river or other such work as provided for by the said Act: Be it therefore enacted, &c., That the ninth Section of the Act aforesaid shall be held to include any By-law for any of the purposes mentioned in the preamble to this Act which was passed before the said Act came into force, or which has been passed since the said Act came in force, but at the date of such Act was in the course of being passed.

Section 9 of the said Act to apply to By-laws then passed or passing.

Copy of such By-law to be sent to Receiver General.

II. That before any such Municipality shall receive or be entitled to receive any money to be raised under the above recited Act, a true copy of the By-law under which the money is to be raised, together with affidavits of the Treasurer and Clerk of the Municipality verifying the same and such other information as the Governor in Council may require, shall be transmitted to the Receiver General.

think, ought
c., (title and
which ought
in this Muni-
e payments
the present

FUND

TO ESTABLISH
VEST.

[ay, 1853.]

the ninth Sec-
municipal Loan
passed or in
for the pur-
for the im-
as provided
at the ninth
be held to
poses men-
which was
to force, or
force, but at
ed.

ity shall re-
oney to be
true copy of
together with
ality verify-
Governor in
ver General.

III.

III. That if the Governor in Council shall approve of such By-law, it shall not be necessary to impose or levy annually the sum or rate per pound which may have been fixed in such By-law to pay the principal and interest of the Loan, but such sum only shall be levied and collected, as may be necessary under the provisions of the sixth Section of the said in part recited Act, and all proceedings in connection with such Loan and By-law or for the recovery of any sum of money which ought to be paid thereunder, may be had and taken as if the said By-law had been passed for the purpose of raising money under the said in part recited Act and after the same came into force.

If the By-law be approved certain rates need not be imposed or levied

IV. That all Debentures which have been or can be issued under the authority of such By-laws as are referred to in the first Section of this Act, shall be deposited with the Receiver General before the Municipality shall be entitled to receive any of the money to be raised under any such By-law, and upon payment by the Municipality of the whole amount which shall be payable in respect of the said Loan, such Debentures shall be cancelled and destroyed in such manner as the Governor in Council shall direct; Provided always, that the money to be raised under any such By-law shall be paid by the Receiver General only on the joint order of the Head of such Municipality and the President of the Company entitled to receive the same: Provided also, that when any such By-law shall have been passed by the Council of any Union of Counties, and such Union shall at any time be dissolved after the passing of such By-law, the several Counties of which such Union of Counties was composed shall continue to be liable in respect of the Loan raised under such By-law as fully and effectually to all intents and purposes as if such Union had not been dissolved, and the Sheriff of the Senior County shall have power within every county which at the time of the passing of such By-law formed part of such former Unions of Counties, to levy any rate which he may be required to collect under the seventh Section of the said in part recited Act, in the same manner as if such Union of Counties had not been dissolved: Provided also, that in the case of any dissolution of a Union of Counties as aforesaid, the order hereinbefore mentioned shall be signed by the Head of the Municipality of the Senior County of such former Union.

All Debentures issued under such By-law to be deposited with Receiver General before any new ones shall issue.

Proviso.

Proviso: as to By-laws passed by Unions of Counties.

Proviso.

V. And be it enacted, That no informality or irregularity in any such By-law or in the proceedings relative thereto anterior to the passing thereof, shall in any way affect the validity thereof after the Governor in Council shall have approved such

No informality to affect the validity of the By-law when once approved by Governor in Council.

By-law, but the order in Council approving such By-law shall be held to cover any such informality or irregularity, and the By-law shall be valid to all intents and purposes, and proceedings may be had for enforcing the payment by the Municipality the Council whereof passed such By-law and by the inhabitants thereof under the provisions of the Act hereinbefore in part recited, as if the By-law had been passed after the said Act and all the requirements thereof had been complied with in regard to such By-law.

Not to apply when Debentures have been sold, &c.

VI. Nothing herein contained shall be held to authorize the raising of any Loan under the said Act, when such Loan shall have been negotiated or the Debentures issued therefor sold to any party before the passing of the said Act.

Act extended to money raised for supplying Gas or Water to any Town.

VII. And be it enacted, That it shall be lawful for the Corporation of any Incorporated Town in Upper Canada, to authorize any sum of money to be raised on the credit of the said Consolidated Municipal Loan Fund, and to appropriate such sum, or so much thereof as may be found requisite, to defray the expense of erecting and maintaining Gas or Water works, or both within and for the use of such Town, or for constructing or aiding in the construction of any Plank Roads, or Macadamized Roads, the making

Of making Plank or macadamized Roads leading to it.

of which will benefit the inhabitants of such Town, in the same manner and to the same effect and under and subject to the same provisions and the observance of the same formalities as are attached to the raising and appropriation of any sum of money to any other purpose in and by the said Act cited in the preamble to this Act and by this Act.

LAW RESPECTING CO-PARTNERSHIPS, AND COMPANIES, ETC, (C. E.)

C A P. X L V.

AN ACT TO FACILITATE ACTIONS AGAINST PERSONS ASSOCIATED FOR COMMERCIAL PURPOSES, AND AGAINST UNINCORPORATED COMPANIES.

[Assented to, 30th May, 1849.]

WHEREAS difficulties exist in bringing Actions against persons associated as Partners for trading purposes, or against unincorporated Companies or Societies formed for like purposes,

12 V
purp
with
nam
ciate
ther
Exc
Legi
Prov
unde
the l
An
and
the a
ship
deliv
in ea
they
the s
mem
Prov
time,
their
effect
of ea
firm
busin
has e
only
be fil
Part
when
days
said
shall
altera
or in
their
and e
requi
to be
cases
well
moiet
the F
same,
Crow
to her

purposes, by reason of the difficulty for parties doing business with such Partnerships, Companies or Societies, to ascertain the names, surnames, residence and addition of all the persons so associated as aforesaid, and great expense and inconvenience are thereby incurred: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That all persons associated in Partnership for trading purposes in Lower Canada, shall cause to be delivered to the Prothonotary of the Court of Civil Jurisdiction, in each District, and to the Registrar of each County, in which they shall carry on business, a declaration in writing, signed by the several members of the said Copartnership, when all such members shall, at the time of making the same, be in the said Province; and if any of the said members be absent at the time, then by the members present, in their own names and for their absent co-members, under their special authority to that effect, and containing the names, surnames, addition and residence of each and every Partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business, and stating also the time during which the Partnership has existed, and declaring that the persons therein named are the only members of such Partnership; and such declaration shall be filed within Sixty days after the passing of this Act, if such Partnership shall have been or shall be formed before the time when this Act shall come into force and effect, and within Sixty days after the formation thereof if it shall be formed after the said Act shall come into force and effect; and a like declaration shall be filed in like manner when and so often as any change or alteration shall take place in the members of such Partnership, or in the name, style or firm under which they intend to carry on their business—under a penalty of Fifty pounds against each and every member of any Partnership with regard to which the requirements of this section shall not have been complied with, to be recovered before any Court having jurisdiction in civil cases to the amount of such penalty, by any person suing as well in his own behalf as on behalf of Her Majesty; and one moiety of such penalty shall belong to the Crown for the uses of the Province, and the other moiety to the party suing for the same, unless the suit be brought (as it may be) on behalf of the Crown only, in which case the whole of the penalty shall belong to her Majesty for the uses aforesaid.

II. And be it enacted, That the said Prothonotary and Registrar shall enter each such declaration as aforesaid, in a book to be by them kept for that purpose, which shall be at all times, during office hours, open to the inspection of the public, gratuitously; and for registering each such declaration the Prothonotary and Registrar shall each be entitled to demand from the person delivering it to him the sum of Two Shillings and Six pence if it shall not contain more than two hundred words, and at the rate of Six pence per hundred words, for all above the number of two hundred: and such declaration shall be in the form or to the effect of the Schedule to this Act annexed.

III. And be it enacted, That the allegations made in the declaration aforesaid, shall not be controvertible as against any party, by any person who shall have signed the same, nor as against any party not being a member of the Partnership, by any person who shall have signed the same, or who was really a member of the Partnership, therein mentioned at the time such declaration was made; nor shall any such Signer or Partner be deemed to have ceased to be a Partner until a new declaration shall have been made and filed by him or his Copartners, or any of them, as aforesaid, stating such alteration in the Partnership; but nothing herein contained shall exempt from liability any person who, being a Partner, shall not have mentioned in the declaration, and such person may, notwithstanding such omission, be sued jointly with the Partners mentioned in the declaration, or they may be sued alone, and if judgment be recovered against them, any other Partner or Partners may be sued jointly or severally, in an action on the original cause of action, upon which such judgment was rendered—nor shall any thing in this Act be construed to affect the rights of any Partners with regard to each other, except that no such declaration as aforesaid shall be controverted by any signer thereof.

IV. And be it enacted, That after the expiration of sixty days from the passing of this Act, if any persons shall be or shall have been associated as Partners for the purposes of trade in Lower Canada, and no declaration shall have been filed under this Act with regard to such Partnership then any action which might be brought against all the members of the Partnership, may also be brought against any one or more of them, as carrying on or as having carried on trade, jointly with others, (without naming such others in the Writ or declaration) under the name and style of their said Copartnership firm; and if judgment be recovered against him or them, any other Partner or Partners may be sued jointly or severally on the original cause of action on which such judgment shall have been rendered: Provided always, that if any such action be founded on any obligation or instrument in writing in which all or any of the Partners bound

Registrar
book to be
es, during
uitously ;
otary and
ne person
pence if it
t the rate
ber of two
or to the

le in the
ainst any
as against
ny person
ber of the
ation was
d to have
een made
aforesaid,
ng herein
, being a
and such
intly with
y be sued
any other
an action
ment was
l to affect
cept that
d by any

of sixty
be or shall
trade in
led under
on which
rtnership,
s carrying
(without
the name
gment be
Partners
of action
Provided
gation or
ers bound
by

12 Vict. LAW RESPECTING CO-PARTNERSHIPS, (C. E.) Cap. 45, 1849.

by it shall be named, then all the Partners named therein shall be made parties to such action : Provided always, and be it declared and enacted that the service of any Summons or Process for any claim or demand upon any existing Copartnership liability at the office or place of business of any such existing Copartnership carrying on business within this Province, is and shall be held and deemed to have the same and equal effect as a service made upon the members of the said Copartnership, personally, and any judgment rendered against any member of such existing Copartnership, for a partnership debt or liability, shall and may be executory by Process of Execution against all and every the Partnership, Stock, Property and Effects in the same manner, and to the same extent as if such judgment had been rendered against such Copartnership.

V. And be it enacted, That the word "Partnership" in this Act, shall include any unincorporated Society, Company, or Association for trading purposes ; and the word "Action" shall include any proceeding at Law to which any such Partnership shall be a party.

VI. And be it enacted, That this Act shall apply only to Lower Canada.

SCHEDULE.—(See Section II.)

PROVINCE OF CANADA, }
DISTRICT OF . }

We, of in , [Grocers]
hereby certify that we have carried on and intend to carry on
trade and business, as [Grocers,] at , in partnership
under the name or firm of (or as the case may
be,) I, (or we,) the undersigned, of , hereby certify
that I (or we) have carried on and intend to carry on trade and
business as , at , in partnership with
C. D. of , E. F. of , and that the said
partnership hath subsisted since the day of ,
one thousand , and that we [or I or we, and
the said C. D. and E. F.] are and have been since the said day,
the only members of the said Partnership.

Witness our [or any of our] hands at
this day of , one thousand eight
hundred and . (or as the case may be.)

LIMITED PARTNERSHIPS IN C.W.

CAP. LXXV.

AN ACT TO AUTHORIZE LIMITED PARTNERSHIPS IN CANADA WEST.

[Assented to, 30th May, 1849.]

BE it enacted by the Queen's Most excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of, &c., That after the passing of this Act, Limited Partnerships for the transaction of any mercantile, mechanical or manufacturing business within Upper-Canada, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned; but the provisions of this Act shall not be construed to authorize any such Partnership for the purpose of Banking or making Insurance.

II. And be it enacted, That such Partnerships may consist of one or more persons, who shall be called General Partners and who shall be jointly and severally responsible as general partners now are by law, and of one or more persons who shall contribute in actual cash payments, a specific sum as capital to the common stock, who shall be called Special Partners, and who shall not be liable for the debts of the partnership beyond the amount or amounts so contributed by him or them to the capital.

III. And be it enacted, That the general partners only shall be authorized to transact business and sign for the partnership, and to bind the same.

IV. And be it enacted, That the persons desirous of forming such partnership shall make and severally sign a Certificate which shall contain—

First. The name or firm under which such partnership is to be conducted.

Secondly. The general nature of the business to be transacted.

Thirdly. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence.

Fourthly. The amount of capital stock which each special partner shall have contributed.

Fifthly. The period at which the partnership is to commence, and the period at which it will terminate.

V. And be it enacted, That the certificate shall be after the form in the Schedule annexed to this Act, and signed by the several persons forming such partnership, before a Notary Public, who shall duly certify the same.

VI. And be it enacted, That the certificate so signed and certified, shall be filed in the Office of the Clerk of the County Court of the County in which the principal place of business of the partnership shall be situate, and shall be recorded by him at large in a book to be kept for that purpose open to public inspection.

VII. And be it enacted, That no such partnership shall be deemed to have been formed until a Certificate shall have been made, certified, filed and recorded as above directed; and if any false statement be made in such certificate, all the persons interested in such partnership shall be liable for all the engagements thereof, as general partners.

VIII. And be it enacted, That every renewal or continuance of such partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation; and every such partnership which shall be otherwise renewed or continued, shall be deemed a general partnership.

IX. And be it enacted, That every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership which shall in any manner be carried on after any such alteration shall have been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section.

X. And be it enacted, That the business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, shall only be used: and if the name of any special partner shall be used in such firm with his privity, he shall be deemed a general partner.

XI. And be it enacted. That suits in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partners.

XII. And be it enacted, That no part of the sum which any special partner shall have contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest shall not reduce the original amount of such capital; and if after the payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.

XIII. And be it enacted, That if it shall appear that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest.

XIV. And be it enacted, That a special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor

be employed for that purpose as Agent, Attorney or otherwise; and if he shall interfere, contrary to these provisions, he shall be deemed a general partner.

XV. And be it enacted, That the general partners shall be liable to account to each other and to the special partners for their management of the concern, both in law and equity, as other partners now are by law.

XVI. And be it enacted, That in case of the insolvency or bankruptcy of the partnership, no special partner shall under any circumstances be allowed to claim as a creditor until the claims of all the other creditors of the partnership shall be satisfied.

XVII. And be it enacted, That no dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the Certificate of its formation or in the Certificate of its renewal, until a notice of such dissolution shall have been filed in the office in which the original Certificate was recorded, and published once in each week for three weeks, in a newspaper published in the County where the partnership may have its principal place of business, and for the same time in the *Canada Gazette*.

XVIII. And be it enacted, That the Clerk of the County Court shall be entitled to have and receive for filing any such Certificate or any renewal thereof, and for recording the same, the sum of Two shillings and six pence.

SCHEDULE.--(See Section V.)

(Referred to in the foregoing Act, and Form of Certificate.)

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____ and (*C. D.*) residing usually at _____ as general partners: and (*E. F.*) residing usually at _____ and (*G. H.*) residing usually at _____ as special partners. The said (*E. F.*) having contributed (£1,000) and the said (*G. H.*) (£2,000) to the Capital Stock of the said partnership. Which said co-partnership commences on the _____ day of _____, (*Anno Domini one thousand eight hundred and forty-nine*), and terminates on the _____ day of _____, (*Anno Domini one thousand eight hundred and fifty-four*).

Dated this _____ day of _____, (*Anno Domini one thousand eight hundred and forty-nine*).

[Signed,]
Signed in presence of me, }
L. M., }
Notary Public. }

A. B.
C. D.
E. F.
G. H.

. 75, 1849.

otherwise;
he shall be

s shall be
partners for
equity, as

olvency or
under any
he claims
sified.

h partner-
ous to the
he Certifi-
shall have
e was re-
eeks, in a
rship may
me in the

nty Court
ch Certifi-
e, the sum

ificate.)

re entered
& Co.,) as
ists of (A.
) residing
d (E. F.)
) residing
The said
(G. H.)

Which
day
eight hun-
day
ndred and

o Domini

A. B.
C. D.
E. F.
G. H.